

CITY OF WINTERS REGULAR PLANNING COMMISSION AGENDA

Tuesday, October 23, 2018 at 6:30 PM  
City of Winters Council Chambers  
318 First Street  
Winters, CA 95694-1923  
Community Development Department  
Contact Phone Number (530) 794-6714  
Email: [dave.dowswell@cityofwinters.org](mailto:dave.dowswell@cityofwinters.org)

Chairperson, Paul Myer  
Vice Chair: Lisa Baker  
Commissioners: Dave Adams, Patrick  
Riley, Gregory Contreras, Daniel  
Schrupp, Ramon Altamirano  
City Manager: John W. Donlevy, Jr.  
Contract Planner, Dave Dowswell  
Management Analyst, Dago Fierros

I CALL TO ORDER

II ROLL CALL & PLEDGE OF ALLEGIANCE

III CITIZEN INPUT: Individuals or groups may address the Planning Commission on items which are not on the Agenda and which are within the jurisdiction of the Planning Commission. NOTICE TO SPEAKERS: Speaker cards are located on the first table by the main entrance; please complete a speaker's card and give it to the Planning Secretary at the beginning of the meeting. The Commission may impose time limits.

IV CONSENT ITEM

A. Minutes of the July 24, 2018 regular meeting and August 14, 2018 special meeting of the Planning Commission.

V STAFF/COMMISSION REPORTS

VI DISCUSSION ITEMS:

A. Report and Recommendation Circulation Master Plan Update.

B. Public Hearing and Consideration of adopting an ordinance amending Title 17 of the Municipal Code having to do with food trucks and stationary and roaming stands (SB946).

C. Public Hearing and Consideration of adopting a resolution amending the Health and Safety Element of the General Plan to include a Yolo County Multi-Jurisdictional Hazard Mitigation Plan.

VII COMMISSION/STAFF COMMENTS

VIII ADJOURNMENT

POSTING OF AGENDA: PURSUANT TO GOVERNMENT CODE § 54954.2, THE COMMUNITY DEVELOPMENT MANAGEMENT ANALYST POSTED THE AGENDA FOR THIS MEETING ON OCTOBER 18, 2018



DAVID DOWSWELL, CONTRACT PLANNER, COMMUNITY DEVELOPMENT  
DEPARTMENT

APPEALS: ANY PERSON DISSATISFIED WITH THE DECISION OF THE PLANNING COMMISSION MAY APPEAL THIS DECISION BY FILING A WRITTEN NOTICE OF APPEAL WITH THE CITY CLERK, NO LATER THAN TEN (10) CALENDAR DAYS AFTER THE DAY ON WHICH THE DECISION IS MADE.

PURSUANT TO SECTION 65009 (B) (2), OF THE STATE GOVERNMENT CODE "IF YOU CHALLENGE ANY OF THE ABOVE PROJECTS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING(S) DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY PLANNING COMMISSION AT, OR PRIOR TO, THIS PUBLIC HEARING".

MINUTES: THE CITY DOES NOT TRANSCRIBE ITS PROCEEDINGS. ANYONE WHO DESIRES A VERBATIM RECORD OF THIS MEETING SHOULD ARRANGE FOR ATTENDANCE BY A COURT REPORTER OR FOR OTHER ACCEPTABLE MEANS OF RECORDATION. SUCH ARRANGEMENTS WILL BE AT THE SOLE EXPENSE OF THE INDIVIDUAL REQUESTING THE RECORDATION.

PUBLIC REVIEW OF AGENDA, AGENDA REPORTS, AND MATERIALS: PRIOR TO THE PLANNING COMMISSION MEETINGS, COPIES OF THE AGENDA, AGENDA REPORTS, AND OTHER MATERIAL ARE AVAILABLE DURING NORMAL WORKING HOURS FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT. IN ADDITION, A LIMITED SUPPLY OF COPIES OF THE AGENDA WILL BE AVAILABLE FOR THE PUBLIC AT THE MEETING. COPIES OF AGENDA, REPORTS AND OTHER MATERIAL WILL BE PROVIDED UPON REQUEST SUBMITTED TO THE COMMUNITY DEVELOPMENT DEPARTMENT. A COPY FEE OF 25 CENTS PER PAGE WILL BE CHARGED.

ANY MEMBER OF THE PUBLIC MAY SUBMIT A WRITTEN REQUEST FOR A COPY OF PLANNING COMMISSION AGENDAS TO BE MAILED TO THEM. REQUESTS MUST BE ACCOMPANIED BY A CHECK IN THE AMOUNT OF \$25.00 FOR A SINGLE PACKET AND \$250.00 FOR A YEARLY SUBSCRIPTION.

OPPORTUNITY TO SPEAK, AGENDA ITEMS: THE PLANNING COMMISSION WILL PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMISSION ON ITEMS OF BUSINESS ON THE AGENDA; HOWEVER, TIME LIMITS MAY BE IMPOSED AS PROVIDED FOR UNDER THE ADOPTED RULES OF CONDUCT OF PLANNING COMMISSION MEETINGS.

REVIEW OF TAPE RECORDING OF MEETING: PLANNING COMMISSION MEETINGS ARE AUDIO TAPE RECORDED. TAPE RECORDINGS ARE AVAILABLE FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT FOR 30 DAYS AFTER THE MEETING.

THE COUNCIL CHAMBER IS WHEELCHAIR ACCESSIBLE.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
JULY 24, 2018**

***DISCLAIMER:** These minutes represent the interpretation of statements made and questions raised by participants in the meeting. They are not presented as verbatim transcriptions of the statements and questions, but as summaries of the point of the statement or question as understood by the note taker.*

Chairman Myer called the meeting to order at 6:30 p.m.

**PRESENT:** Commissioners, Adams, Baker, Contreras, Riley, Vice Chair Baker, Chairman Myer

**ABSENT:** Commissioner Schrupp

**STAFF:** City Manager John Donlevy, Contract Planner Dave Dowsell, Chief Building Official Gene Ashdown, Management Analyst Dagoberto Fierros

Management Analyst Commissioner Altamirano led the pledge of allegiance.

**CITIZEN INPUT:** None.

**CONSENT ITEM:**

- A. Minutes of the May 22 and June 26, 2018 regular meeting of the Planning Commission.

Commissioner Contreras moved with corrections to the May 22 Planning Commission meeting.  
Commissioner Riley Seconded.

**AYES:** Commissioners Adams, Altamirano, Contreras, Riley, Vice Chair Baker, Chairman Myer

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Schrupp

Motion carried.

**STAFF/COMMISSION REPORTS:**

Commissioner Riley attended his assigned Putah Creek Council Meeting.

Chairman Myer announced the birth of Commission Schrupp's newborn.

**DISCUSSION ITEM:**

- A. Public Hearing and Consideration of an application by Catholic Bishop of Sacramento to amend (reconfigure) the Tentative Map for the 40 lot subdivision of the Creekside Estates Development located at the southwest corner of Grant Avenue (SR 128) and Main Street along Dry Creek.

Contract Planner Dave Dowsell gave a brief presentation on the proposed Tentative Map.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
JULY 24, 2018**

**PUBLIC COMMENTS:**

Maxwell Thomas, 412 Dry Creek Lane, stated his concern about drainage issues. Thomas also stated the interest from various neighbors who would like to purchase a portion of the adjacent property to maintain access to Dry Creek.

Linda Hurst, resident at Dry Creek Lane, stated her interest in purchasing a portion of the adjacent property to maintain access to Dry Creek.

Bryan Bonino, Project Engineer of Laugenour and Meikle, stated there is an existing 30 foot public utility easement that runs along the backside of the concerned resident's properties. If the residents bought a portion of the property behind their homes, they would not be able to build directly above the public utility easement because there is an active storm drain there. It could serve, however, as a buffer.

**COMMISSIONER/STAFF COMMENTS:**

Vice Chair Baker moved to approve staff recommendations, Adams Seconded.

**AYES:** Commissioners Adams, Altamirano, Contreras, Riley, Vice Chair Baker, Chairman Myer

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Schrupp

Motion carried unanimously.

Chairman Myer encouraged the developer to diversify their models.

**DISCUSSION ITEM:**

- A. Study session regarding food trucks.

Management Intern, Samuel Donlevy shared with the commission an update on food trucks in town. Location, Size, Marketability, and Permits were discussed.

Vice Chair Baker advised to engage the local business owners in order to gain their input and provide synergy between businesses that will be directly impacted.

Commissioner Adams and Contreras stated their concerns with the affects the proposed regulations will have on mobile food vendors on private property and public property.

**PUBLIC COMMENTS:** None.

**COMMISSIONER/STAFF COMMENTS:**

Commissioner Riley asked for a timeline on the updates to the ordinance regarding mobile food vendors.

Commissioner Contreras stated that it would be important to not preclude existing establishments from filing a complaint against mobile food vendors if they are ever permitted to operate near existing establishments.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
JULY 24, 2018**

Planner, Dave Dowswell replied that Use Permits can be revoked.

Discussion ensued.

**DISCUSSION ITEM:**

B. Study session regarding AirBnbs

Management Intern, Aaron Ryan shared a brief update on temporary home and single room rentals such as “AirBnB” in Winters.

Future permitting processes and regulations were discussed with the Planning Commission.

**PUBLIC COMMENTS:** None.

**COMMISSIONER/STAFF COMMENTS:**

Vice Chair Baker asked what the city is currently doing to collect tax from temporary rentals.

City Manager, John Donlevy followed up by stating that the City Attorney is currently working on issues in regards to the City collecting business tax and transient occupancy tax from temporary rentals.

Discussions about accessibility, zoning, permitting, and regulatory processes ensued with the Planning Commission.

**ADJOURNMENT:** Vice Chair Baker adjourned the meeting at 8:40 pm.

**ATTEST:** \_\_\_\_\_

Dagoberto Fierros, Management Analyst

\_\_\_\_\_

Paul Myer, Chairman

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
AUGUST 14, 2018**

***DISCLAIMER:** These minutes represent the interpretation of statements made and questions raised by participants in the meeting. They are not presented as verbatim transcriptions of the statements and questions, but as summaries of the point of the statement or question as understood by the note taker.*

Chairman Myer called the meeting to order at 6:30 p.m.

**PRESENT:** Commissioners, Adams, Altamirano, Baker, Schrupp, Vice Chair Baker, Chairman Myer

**ABSENT:** Commissioners Contreras, Riley

**STAFF:** City Manager John Donlevy, Contract Planner Dave Dowswell, Chief Building Official Gene Ashdown, Management Analyst Dagoberto Fierros

Commissioner Schrupp led the pledge of allegiance.

**CITIZEN INPUT:** None.

**CONSENT ITEM:** None.

**STAFF/COMMISSION REPORTS:**

None.

**DISCUSSION ITEM:**

- A. Public Hearing and Consideration of an application by Winters Cemetery District to install a 950 square foot, one-story, modular office building near the northeast corner of the property located at 415 Cemetery Street.

Planner Dave Dowswell shared information on the proposed project. Dowswell shared aesthetic recommendations.

**PUBLIC COMMENTS:** None.

**COMMISSIONER/STAFF COMMENTS:**

Vice Chair Baker moved to approve with staff recommendation, Adams Seconded.

**AYES:** Commissioners Adams, Altamirano, Schrupp, Vice Chair Baker, Chairman Myer

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Commissioners Contreras, Riley

Motion carried unanimously.

**DISCUSSION ITEM:**

- B. Public Hearing and Consideration of an application by Hooby's Brewing to install two signs on property located at 9 East Main Street, Suites J & K. One sign will be 5 feet in diameter and will

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
AUGUST 14, 2018**

face East Main Street and the other sign will be 2 feet by 5 feet and will face Elliot Street. Both signs will be non-illuminated.

Planner Dave Dowswell shared information on the proposed project.

**PUBLIC COMMENTS:**

Curtis Stocking, project applicant, let the Planning Commission know that they have no problem building the signs to our current standards. The size of signs, as shown in the graphic, were slightly larger than allowed.

**COMMISSIONER/STAFF COMMENTS:**

Altamirano moved to approve with staff recommendation, Schrupp seconded.

**AYES:** Commissioners Altamirano, Schrupp, Vice Chair Baker, Chairman Myer

**NOES:** None

**ABSTAIN:** Commissioner Adams

**ABSENT:** Commissioners Contreras, Riley

Motion carried.

**DISCUSSION ITEM:**

C. Public Hearing and Consideration of adopting the Downtown Parking Master Plan.

City Manager, John Donlevy shared an update on the adoption of the Downtown Parking Master Plan.

All recommendations from the parking consultants were shared with the Planning Commission.

**PUBLIC COMMENTS:**

Kate Laddish, resident, expressed her concerns about the report through a written letter.

Sandy Vickrey, resident, expressed her concern with certain parking time limits.

**COMMISSIONER/STAFF COMMENTS:**

Vice Chair Baker expressed her gratitude for everyone who participated in the parking study.

Vice Chair Baker asked if bicycle and motorcycle parking can be addressed.

Chairman Myer brought up residential parking and asked how it will be addressed.

John Donlevy stated that bicycle parking locations are available in the downtown but signage is lacking, the consultants recommended better signage. Motorcycle parking was determined to not be much of an issue. Donlevy continued by saying that the management and enforcement of residential parking in the downtown area was not currently addressed in the report but will be moving forward.

Baker moved to approve to approve recommendation, Schrupp seconded.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
AUGUST 14, 2018**

**AYES:** Commissioners Adams, Altamirano, Schrupp, Vice Chair Baker, Chairman Myer

**NOES:** None

**ABSTAIN:** None.

**ABSENT:** Commissioners Contreras, Riley

Motion carried unanimously.

**DISCUSSION ITEM:**

D. Discussion regarding General Plan refresh.

City Manager, John Donlevy shared an update on the city's existing General Plan.

Vice Chair Baker discussed the importance of maintaining quality control through consistency of information at the internal staff level when changes are being made to the General Plan. Baker continued by stating that the Housing Element will be affected by SB2 and other HCD requirements. Seismic regulation updates in the core downtown, sustainability and adaptation through the climate action plan were also discussed.

**PUBLIC COMMENTS:**

Kate Laddish, resident, expressed her concerns about the report through a written letter.

**COMMISSIONER/STAFF COMMENTS:**

John Donlevy stated that he plans to meet with Kate Laddish in the near future to answer her questions and concerns about the General Plan update.

**ADJOURNMENT:** Vice Chair Baker adjourned the meeting at 7:59 pm.

**ATTEST:** \_\_\_\_\_

Dagoberto Fierros, Management Analyst

\_\_\_\_\_

Paul Myer, Chairman



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chair and Commissioners  
**DATE:** October 23, 2018  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Alan Mitchell, City Engineer  
**SUBJECT:** Circulation Master Plan Update

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**RECOMMENDATION:** Staff recommends Commission receive presentation of the Circulation Master Plan Update presented by Fehr & Peers staff and make recommendation of approval to City Council.

**BACKGROUND:** In 1992, as part of the General Plan Update, the Circulation Master Plan was prepared by Wilbur Smith Associates. It included an assessment of then-existing traffic conditions and, using a traffic modeling software, an analysis of future traffic conditions for various combinations of land-use and roadway improvements. The Plan provided a recommended circulation plan including projects with cost estimates, and roadway classifications and standards.

Subsequently, the City's on-call Traffic Engineering Consultant - Fehr & Peers has provided additional analysis and in 2002 developed a travel demand model (traffic model) to produce more reliable traffic forecasting to use with evaluating the traffic impacts of new development. They have also prepared traffic studies for specific development projects, including Winters Highlands (Stone's Throw), Callahan Estates (Heartland), Hudson Ogando (Winters Ranch), and Creekside Estates, the PG&E Gas Training Facility, the I-505/Grant Ave. Planning Area, Burger King/Arco, and they also prepared the Grant Ave./Hwy. 128 Complete Streets Concept Plan and Grant Avenue Access Study. We currently have only the 1992 Plan plus numerous individual Traffic Studies and Reports, which will be melded into one document for future planning of the City's circulation system.

The City recently updated the Impact Fee Program (AB1600), which includes projects to expand the current public facilities to serve new development and to establish appropriate capital improvement facilities fees to pay for the cost of these facilities, consistent with the goals and policies of the General Plan. An update of the Circulation Master Plan was authorized by Council in order to identify the transportation elements needed to serve new development, and identify the estimated costs for those elements, which will be used to set the impact fees the city will collect.

City staff worked with Fehr & Peers to update of the Circulation Master Plan, which was completed in late 2017. The document includes a discussion of existing roadway conditions, travel-demand forecasting with an update to the city's model, a discussion of future roadway conditions and necessary improvement projects under build-out conditions, and a description of the methodology for updating the impact fees. The result is a comprehensive plan that incorporates approved development, as well as future development through General Plan buildout.

**RECOMMENDATION:** Staff recommends that the Planning Commission take the following action:

- 1) Receive the staff report and Circulation Master Plan Update presentation; and
- 2) Recommend approval to the City Council

ATTACHMENT: Draft Circulation Master Plan Update, dated November 2017

# **Circulation Master Plan**

and

# **Roadway Impact Fee Program Update**

Prepared for:  
City of Winters

November 2017

RS16-3469

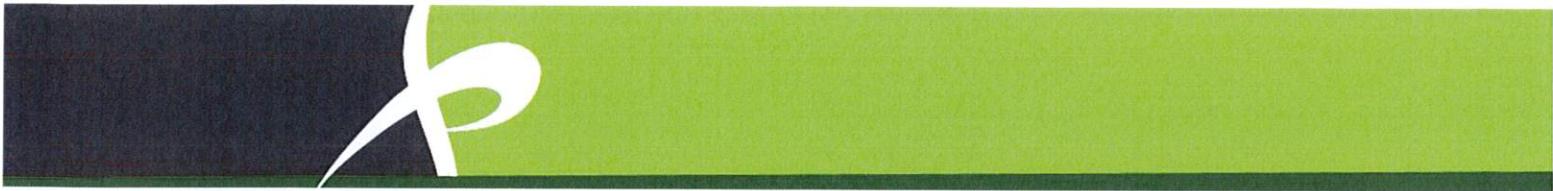
FEHR  PEERS

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# DOCUMENT ORGANIZATION

This document contains the following chapters:

- Chapter 1, an introduction of the document.
- Chapter 2, a discussion of existing roadway conditions in the City of Winters.
- Chapter 3, a discussion of the travel demand forecasting process, including the update to the City of Winters travel demand model.
- Chapter 4, a discussion of future roadway conditions and necessary roadway improvement projects under General Plan buildout conditions.
- Chapter 5, a description of the methodology for updating the City's roadway impact fee program.

# 1. INTRODUCTION

The City of Winters *General Plan* details a future vision for citywide residential and economic development throughout the City of Winters. At buildout, the *General Plan* includes provisions for approximately 14,200 residents, a near doubling of the current City population. Most residential growth is planned to occur in the northern portion of the City, while commercial and industrial land use growth areas are concentrated around the East Grant Avenue corridor near the Interstate 505 (I-505) interchange.

The continued development of the City would require an expanded circulation system in order to adequately serve the growing mobility needs of the community. Therefore, the primary purpose of the City of Winters *Circulation Master Plan* is to identify the roadway improvements necessary to ensure the on-going functionality of the citywide circulation system as the City continues to develop.

This document serves as an update to the *Circulation Master Plan* originally developed in 1992. Since the original plan's adoption, Winters has added more than 2,500 residents and undergone multiple revisions to the City's future land use plan. Moreover, the incremental development of the citywide circulation system has resulted in a road network that partially deviates from that outlined in the original plan. This *Circulation Master Plan* update provides an opportunity to enhance the City's original network framework in response to the demographic and transportation system changes that have transpired over the past 25 years.

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## Data Collection

In order to understand current operations of the local roadway system, peak hour intersection traffic counts and daily roadway segment counts were collected throughout the City of Winters in Fall 2016.

### Intersections

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Fehr & Peers conducted morning (7:00 to 9:00 AM) and evening (4:00 to 6:00 PM) peak period traffic counts in October 2016 at nine major intersections. Weather conditions during the traffic counts were dry and sunny.

1. Grant Avenue / Valley Oak Drive
2. Grant Avenue / Main Street
3. Railroad Avenue / Niemann Street
4. Grant Avenue / Railroad Avenue
5. Railroad Avenue / Main Street
6. East Grant Avenue / East Main Street
7. East Grant Avenue / CR-90 (Matsumoto Lane)
8. East Grant Avenue / I-505 SB Ramps
9. East Grant Avenue / I-505 NB Ramps

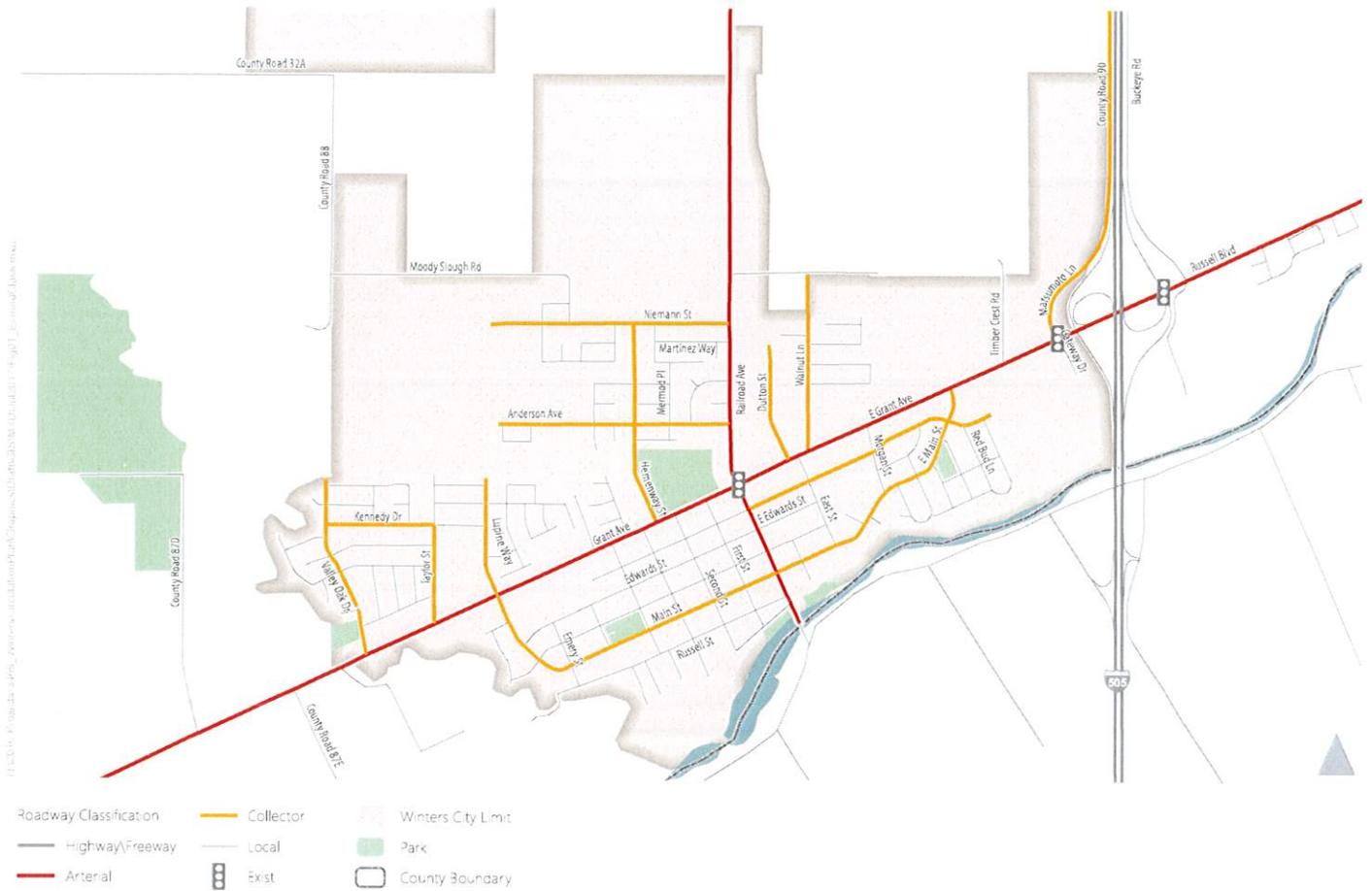


Figure 1

Existing Roadway Facilities



## Roadway Segments

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Daily traffic volume counts were also conducted in October 2016 for a two-day (48-hour) period at the following 12 roadway segments:

1. Grant Avenue west of Valley Oak Drive
2. Valley Oak Drive north of Grant Avenue
3. Main Street south of Grant Avenue
4. Main Street north of Grant Avenue
5. Niemann Street west of Railroad Avenue
6. Railroad Avenue north of Niemann Street
7. Grant Avenue west of 1<sup>st</sup> Street
8. Railroad Avenue north of Grant Avenue
9. Railroad Avenue north of Putah Creek Road
10. East Grant Avenue west of East Main Street
11. East Main Street south of East Grant Avenue
12. East Grant Avenue east of East Main Street

## Methodology

This study analyzes traffic operating conditions using level of service (LOS) as the primary measure of operational performance. Motorized vehicle LOS is a qualitative measure of traffic flow from the perspective of motorists and are an indication of the comfort and convenience associated with driving. Typical factors that affect motorized vehicle LOS include speed, travel time, traffic interruptions, and freedom to maneuver. Empirical LOS criteria and methods of calculation have been documented in the *Highway Capacity Manual* (HCM) published by the Transportation Research Board of the National Academies of Science (Transportation Research Board, 2010). The HCM defines six levels of service ranging from LOS A (representing free-flow vehicular traffic conditions with little to no congestion) to LOS F (oversaturated conditions where traffic demand exceeds capacity resulting in long queues and delays). The LOS definitions and calculations contained in the HCM are the prevailing measurement standard used throughout the United States and are used in this study. Motorized vehicle LOS definitions for signalized intersections, unsignalized intersections, and roadway segments are discussed below.

### Signalized Intersection Analysis

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The LOS at signalized intersections is based on the average control delay (i.e., delay resulting from initial deceleration, queue move-up time, time stopped on an intersection approach, and final acceleration) experienced per vehicle traveling through the intersection. **Table 1** describes the delay range for each LOS category for signalized intersections as presented in Chapter 18 of the HCM 2010.

**Table 1:**  
**Level of Service Criteria – Signalized Intersections**

Level of Service	Description	Average Control Delay <sup>1</sup>
A	Volume-to-capacity ratio is low and either progression is exceptionally favorable or cycle length is very short. Most vehicles arrive during the green phase and travel through the intersection without stopping.	≤ 10
B	Volume-to-capacity ratio is low and either progression is highly favorable or the cycle length is short. More vehicles stop than with LOS A.	>10 to 20
C	Progression is favorable or the cycle length is moderate. Individual cycle failures (i.e., one or more queued vehicles are not able to depart as a result of insufficient capacity during the cycle) may begin to appear at this level. The number of vehicles stopping is significant, although many vehicles still pass through the intersection without stopping.	>20 to 35
D	Volume-to-capacity ratio is high and either progression is ineffective or the cycle length is long. Many vehicles stop and individual cycle failures are noticeable.	>35 to 55
E	Volume-to-capacity ratio is high, progression is unfavorable, and the cycle length is long. Individual cycle failures are frequent.	>55 to 80
F	Volume-to-capacity ratio is very high, progression is very poor, and the cycle length is long. Most cycles fail to clear the queue.	>80

Notes: <sup>1</sup>Average control delay presented in seconds per vehicle. Delay values are rounded to the nearest second and evaluated for LOS based on the above thresholds (i.e., 10 seconds per vehicle = LOS A)

Source: *Highway Capacity Manual 2010*, Transportation Research Board, 2010.

## Unsignalized Intersection Analysis

Similar to signalized intersections, the HCM 2010 methodology for unsignalized intersections reports the LOS based on the control delay experienced by motorists traveling through the intersection. **Table 2** presents the LOS criteria for unsignalized intersections per Chapter 19 and Chapter 20 of the HCM 2010.

**Table 2:  
Level of Service Criteria – Unsignalized Intersections**

Level of Service	Control Delay <sup>1</sup>
A	≤ 10
B	>10 to 15
C	>15 to 25
D	>25 to 35
E	>35 to 50
F	>50

Notes: <sup>1</sup>Control delay presented in seconds per vehicle. Delay values are rounded to the nearest second and evaluated for LOS based on the above thresholds (i.e., 10 seconds per vehicle = LOS A)  
 Source: *Highway Capacity Manual 2010*, Transportation Research Board, 2010.

As shown in Table 2, the LOS criteria for unsignalized intersections are slightly different from signalized intersections. The HCM anticipates that motorists expect signalized intersections to carry higher traffic volume that result in greater delay than an unsignalized intersection. Unsignalized intersections are associated with more uncertainty as delays are less predictable, which can reduce users’ delay tolerance.

As described in Chapter 20 of the HCM 2010, the LOS for all-way stop controlled intersections is based on the average control delay for the entire intersection.

For side-street stop-controlled intersections, the LOS is determined separately for each minor-street movement (or shared movement) as well as major-street left turn movements, per Chapter 19 of the HCM 2010.

### Roadway Segment Analysis

Roadway segments were analyzed by comparing PM peak hour (two-way total) traffic volumes to roadway capacities for different roadway classifications. These roadway capacities were developed using the Highway Capacity Software (HCS) 2000 (Patch E), which applies the HCM 2000 methodologies.

Citywide, the PM peak hour experiences the highest hourly volume during a typical weekday, and therefore represents a ‘worst-case’ scenario for the purposes of this analysis. This peak hour volume is used to design future roadways because of its regular weekday occurrence. Using a higher or lower volume hour could lead to inadequate designs or designs that are underused.

**Table 3** summarizes the peak hour roadway segment capacities by functional classification for two- and four-lane roadways.

**Table 3:  
Level of Service Criteria – Roadway Segments**

Type	Lanes	Separation	Peak Hour Roadway Capacity				
			LOS A	LOS B	LOS C	LOS D	LOS E
Arterial	4	Raised	-	-	1,000	3,470	3,730
		TWLTL	-	-	940	3,290	3,550
		Undivided	-	-	770	2,740	2,980
	2	Raised	-	-	440	1,640	1,860
		TWLTL	-	-	420	1,550	1,760
		Undivided	-	-	340	1,270	1,480
Collector	4	TWLTL	-	-	940	3,290	3,550
		Undivided	-	-	770	2,740	2,980
	2	TWLTL	-	-	420	1,550	1,760
		Undivided	-	-	340	1,270	1,480

Source: Fehr & Peers and *Highway Capacity Manual 2000*, Transportation Research Board, 2000.

It should be noted that this methodology used to analyze the roadway system is a simple comparison of vehicle throughput and roadway capacity and does not account for potential operational improvements resulting from traffic control at intersections. As such, roadway segment LOS is often reported as being worse than adjacent intersection LOS where traffic signals, roundabouts, and other traffic control devices facilitate vehicular movement. Therefore, at locations where both roadway segment LOS and intersection LOS analyses are conducted, intersection LOS supersedes roadway segment LOS, as it more accurately portrays actual roadway operating conditions.

## Signal Warrants

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The study analyzes peak hour signal warrants at unsignalized intersections using the *California Manual on Uniform Traffic Control Devices* (MUTCD) peak hour warrant criteria (California State Transportation Agency, 2017).

The peak hour signal warrant is one of nine warrants included in the MUTCD to determine whether the installation of a traffic signal is appropriate at a particular location. As stated in the MUTCD, the satisfaction of a traffic signal warrant or warrants shall not in itself require the installation of a traffic control signal. For purposes of this study, the peak hour signal warrant is used as an indicator of whether peak hour traffic conditions may warrant a signal. However, a full engineering study of traffic conditions, pedestrian characteristics, and physical characteristics of a specific intersection would be necessary to fully determine if a traffic signal is an appropriate traffic control option.

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## Level of Service Standards

### City of Winters

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#### *Existing LOS Policy*

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The City of Winters *General Plan* (City of Winters, 1992) establishes LOS standards for City-owned roadway facilities. Currently, two policies address LOS standards in the City:

- Policy III.A.1.** The City shall endeavor to maintain a Level of Service "C" or better, as defined by the 1985 *Highway Capacity Manual* or subsequent revisions, on all streets and intersections within the City.
  
- Policy III.A.8.** The City shall comply with and implement the programs and policies of the Yolo County *Congestion Management Plan* (CMP).

According to these policies, currently, LOS C is identified as the acceptable service level throughout the City, except at intersections located along Grant Avenue (SR-128) where LOS D conditions are acceptable as specified in the Yolo County CMP.

#### *Recommended LOS Policy*

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The City of Winters Circulation Master Plan provides an opportunity to update and refine the future roadway network vision and desired level of operation consistent with the City's current mobility and livability goals. Given this opportunity, the City determined that a review of the current LOS policy is warranted in order to determine if LOS C is still appropriate for planning purposes.

Several factors were considered in this review:

- The boundary between LOS E and LOS F represents full utilization of peak hour roadway capacity. Setting a peak hour threshold of LOS C means that the network will not be fully utilized during the peak hour and other hours of the day will operate well below capacity.
- Maintaining LOS C conditions may create the need to expand the roadway network or to allocate more green time at signals for drivers. Either modification to the network could create conflicts with bicyclists and pedestrians by creating longer crossing distances or wait times at intersections.
- LOS C will generally require a larger roadway network footprint than allowing LOS D, E, or E/F conditions. A larger network footprint creates higher costs for roadway operations and maintenance.

Based on this review, the following modifications (in *italics*) to Policy III.A.1. are recommended to identify future roadway facility needs on the City circulation network.

**Policy III.A.1.** The City shall endeavor to maintain a Level of Service “D” or better, as defined by the *Highway Capacity Manual 2010* or subsequent revisions, on all streets and intersections within the City.

## Caltrans

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Caltrans' *Draft Transportation Corridor Concept Report State Route 128* (Caltrans, June 2017) identifies future roadway improvements and LOS targets for SR-128 over a 20-year planning horizon. For SR-128 within the limits of the City of Winters, the 20-Year Future LOS is specified as LOS E and the 20-Year Concept LOS is specified as LOS D.

## Circulation Master Plan LOS Criteria

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Based on the LOS thresholds identified above, operational deficiencies for the purposes of the *Circulation Master Plan* are identified under the following conditions:

- On City of Winters roadway facilities:
  - For signalized and all-way stop-controlled intersections, locations with peak hour intersection operations of LOS E or worse.
  - For side-street stop-controlled intersections, locations where the worst-case movement (or shared movement) operates at LOS E or worse and that meet the California Manual on Uniform Traffic Control Devices (CAMUTCD) peak hour signal warrant.
  - For roadway segments, locations with peak hour roadway segment operations of LOS E or worse (except where superseded by intersection LOS).

- On Grant Avenue (SR-128):
  - For signalized and all-way stop-controlled intersections, locations with peak hour intersection operations of LOS E or worse.
  - For side-street stop-controlled intersections, locations where the worst-case movement (or shared movement) operates at LOS E or worse and that meet the California Manual on Uniform Traffic Control Devices (CAMUTCD) peak hour signal warrant.
  - For roadway segments, locations with peak hour roadway segment operations of LOS E or worse (except where superseded by intersection LOS).

## 2. EXISTING CONDITIONS

This chapter describes the existing traffic conditions in Winters.

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### Roadway Network

**Figure 1** illustrates the existing roadway network serving the City of Winters. Primary roadways serving the City include Interstate 505 (I-505), State Route 128 (SR-128), and Railroad Avenue.

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#### Regional Roadways

**I-505** is a four-lane divided freeway running north-south between Vacaville and Dunnigan. I-505 is the primary regional route serving Winters, with local access available via East Grant Avenue and Putah Creek Road. According to Caltrans average daily traffic (ADT) data from 2015, I-505 carries approximately 23,000 daily trips within the vicinity of the East Grant Avenue interchange.

**SR-128** is a two-lane arterial running east-west through Winters. Within the City of Winters, SR-128 is referred to as Grant Avenue. SR-128 transitions into Russell Boulevard as it runs east of Winters towards Davis. West of Winters, SR-128 travels past Lake Berryessa and eventually into the Napa Valley. SR-128 is owned, operated, and maintained by Caltrans.

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#### Local Roadways

**Grant Avenue** is the major east-west roadway through the City. Local motorists utilize Grant Avenue as the primary route to I-505, as well as Davis and other regional destinations along the I-80 corridor. Grant Avenue serves as a major route for local and regional motorists traveling west to Lake Berryessa. Through trips generated by regional recreational travelers result in heightened traffic volumes during the peak summer months.

**Railroad Avenue** is the primary north-south roadway through the City. This two-lane arterial bisects the City, beginning at the Solano County line, crossing Putah Creek, and traveling north through Winters towards Esparto. Local motorists utilize Railroad Avenue for access to the downtown Winters business district.

**Main Street** is a two-lane collector utilized for local access to downtown Winters and the adjacent residential neighborhoods. Currently a 'half-loop' through the southern portion of the City, Main Street has long been planned to provide a complete loop through Winters.

**Niemann Street** and **Anderson Avenue** are two-lane east-west collectors located in the northern portion of the City, providing local motorists with access to Winters Middle School and Shirley Rominger Intermediate School. **Valley Oak Drive, Taylor Street, Hemenway Street, Dutton Street,** and **Walnut Lane** are north-south roadways connecting residential neighborhoods to Grant Avenue. **Matsumoto Lane,** or **County Road 90 (CR-90),** is north-south collector beginning at Grant Avenue and traveling north as a frontage road along the west side of I-505. Matsumoto Lane is the primary access route for highway commercial uses concentrated near the I-505 / Grant Avenue interchange.

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## Existing Roadway Operations

This section describes the existing operations of roadway facilities within the City.

### Average Daily Traffic

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**Figure 2** illustrates existing average daily traffic volumes (two-way total) for roadways within Winters. Currently, Grant Avenue is the most heavily utilized roadway within the City, carrying approximately 13,800 daily vehicles near the City's eastern limits. Daily vehicle trips decrease substantially on Grant Avenue towards the west, with 7,780 and 3,030 daily vehicles traveling on Grant Avenue west of Railroad Avenue and west of Valley Oak Drive, respectively.

Daily vehicles on Railroad Avenue increase from 1,650 daily vehicles near the City's northern limits to 5,690 daily vehicles south of Grant Avenue.

Elsewhere within the City, average daily traffic volumes generally measure fewer than 3,000 vehicles



## Level of Service

**Table 4** summarizes the existing AM and PM peak hour LOS results for the nine study intersections. All study intersections currently operate acceptably based on their respective LOS standards.

**Table 4:  
Existing Level of Service – Study Intersections**

Intersection	Control Type	AM Peak Hour		PM Peak Hour	
		LOS	Delay (sec)	LOS	Delay (sec)
Grant Ave. / Valley Oak Dr.	SSSC <sup>1</sup>	B	10.2	B	11.5
Grant Ave. / Main St.	SSSC	C	17.6	C	19.1
Railroad Ave. / Niemann St.	SSSC	B	10.5	A	9.4
Grant Ave. / Railroad Ave.	Signal	B	19.2	B	15.5
Railroad Ave. / Main St.	AWSC <sup>2</sup>	A	8.4	A	9.1
E Grant Ave. / E Main St.	SSSC	C	20.7	D	29.8
E Grant Ave. / Matsumoto Ln.	Signal	A	6.1	A	7.5
E Grant Ave. / I-505 SB Ramps	SSSC	C	17.5	C	20.7
E Grant Ave. / I-505 NB Ramps	Signal	A	5.8	A	7.0

Notes: <sup>1</sup>SSSC = Side Street Stop Control.

<sup>2</sup>AWSC = All Way Stop Control

Source: Fehr & Peers, 2017.

**Figure 3** illustrates existing PM peak hour traffic volumes and level of service for roadways within Winters. As shown in Figure 3, during the PM peak hour, all roadway segments operate acceptably at LOS D or better.

Based on existing LOS results, no deficiencies currently exist on local or State roadway facilities in the City.

## Signal Warrants

Peak hour signal warrant analyses were conducted for critical unsignalized intersections throughout the City. None of the unsignalized intersections meet the peak hour signal warrant under existing conditions.



### 3. TRAVEL DEMAND FORECASTING

The City of Winters travel demand forecasting (TDF) model was utilized to forecast traffic volumes associated with anticipated population and employment growth throughout the City. Traffic volume forecasts serve as the basis for identifying future roadway network needs for the City.

Fehr & Peers updated the City's TDF model as part of the broader *Circulation Master Plan* update process. The TDF model update included the following model improvements from the prior TDF model, which had been developed in 2001:

- Updated street network data to reflect existing roadway conditions throughout the City;
- Updated land use inputs to reflect current land use allocations throughout the City;
- Updated trip generation rates to reflect the most recent rates recommended by the Institute of Transportation Engineers and to capture City-specific trip generation characteristics surveyed in Fall 2016; and
- Refined traffic analysis zone (TAZ) structure to isolate travel characteristics of neighborhoods that have developed since 2001.

**Figure 4** displays the refined TDF model TAZ boundaries.

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#### Model Scenarios

The updated TDF model includes the following scenarios:

- Existing Conditions, which represents the land use and roadway network present as of Fall 2016
- General Plan Buildout, which represents the full buildout of the City of Winters *General Plan*

The General Plan Buildout scenario was developed to assist with roadway sizing and to establish a buildout roadway system for the City. The General Plan Buildout scenario was also developed to identify necessary roadway improvement projects for inclusion in the City's impact fee program.



## Model Inputs

This section summarizes the roadway network, land use, and trip generation inputs in the TDF model.

### Roadway Network

The existing roadway network included in the TDF model reflects the current circulation system serving the City of Winters, including roadway classification, speed, and capacity.

The roadway network changes included in the future TDF model scenarios incorporates elements of the circulation framework envisioned in the original 1991 *Circulation Master Plan*. Key elements of this framework, such as the Main Street loop, were preserved in the TDF model. Modifications were made where actual development has deviated from the original circulation framework (e.g. the truncation of East Street south of East Grant Avenue).

**Figure 5** illustrates the future roadway network included in the TDF model. Key elements of the future roadway network include:

- Completion of Main Street loop road
- Northern extension of Valley Oak Drive, Taylor Street, Hemenway Street, Dutton Street, Walnut Lane, and Timber Crest Road.
- Western extension of Niemann Street.
- Creation of new east-west roadways, including Moody Slough Road and CR-32A.

All new roadways identified in the future network are intended to be two-lane collector roads. No new arterials are included in the future roadway network. The updated TDF model does not include granular network detail for subdivisions such as Winters Highlands, but does include centroid connectors linking TAZs to adjacent collector roadways.



## Land Use

**Table 5** summarizes the land use inputs for each TDF model scenario.

<b>Table 5: TDF Model Land Use Inputs</b>				
<b>ID</b>	<b>Land Use Classification</b>		<b>Existing Conditions</b>	<b>General Plan Buildout</b>
	<b>Type</b>	<b>Unit</b>		
	Population	Persons	7,000	14,200
RR	Rural Residential	DU	2	38
R-1	Single Family Residential	DU	587	1,182
R-2	1 & 2 Family Residential	DU	1,399	1,939
R-3	Multifamily Residential	DU	169	1,060
R-4	High Density Residential	DU	257	575
C-1	Neighborhood Commercial	ksf	43	279
C-2	Central Business District	ksf	218	260
CH	Highway Service Commercial	ksf	3	39
OF	Office	ksf	47	264
M-1	Light Industrial	ksf	3	614
M-2	Heavy Industrial	ksf	386	757
G	Gas Station	Pump	36	36
H	Hotel	Room	-	212

The Existing Conditions scenario reflects the City's land use allocations and distribution as of Fall 2016. Both future scenarios include reasonably foreseeable land development projects approved by the City of Winters, such as the PG&E Technical Operations Training Center, Blue Mountain Senior Housing, and Hotel Winters.

The remaining growth in the General Plan Buildout scenario includes unconstrained development of all areas zoned for residential development according to City floor area ratio (FAR) standards. Non-residential growth was proportionally distributed throughout the City based on the geographic size of areas zoned for commercial, office, and industrial land uses. Absorption rates for commercial, office, and industrial land uses were applied based on retail and non-retail jobs per capita projections for Winters derived by SACOG.

## Trip Generation

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**Table 6** summarizes the City of Winters TDF model daily trip generation rates by land use category.

<b>Table 6: TDF Model Trip Generation Inputs</b>			
<b>ID</b>	<b>Land Use Classification</b>		<b>Daily Trip Rate</b>
	<b>Type</b>	<b>Unit</b>	
RR	Rural Residential	DU	9.79
R-1	Single Family Residential	DU	9.79
R-2	1 & 2 Family Residential	DU	9.79
R-3	Multifamily Residential	DU	6.84
R-4	High Density Residential	DU	6.84
C-1	Neighborhood Commercial	ksf	91.75
C-2	Central Business District	ksf	42.70
CH	Highway Service Commercial	ksf	496.12
OF	Office	ksf	11.42
M-1	Light Industrial	ksf	6.97
M-2	Heavy Industrial	ksf	3.82
G	Gas Station	Pump	162.78
H	Hotel	Room	8.17

Source: Fehr & Peers, 2016.

Trip generation rates were derived from the recommended rates included in the Institute of Transportation Engineers *Trip Generation Manual, 9<sup>th</sup> Edition*. Rates for single-family residential and neighborhood commercial land uses were refined based on field surveys and traffic counts conducted in Winters.

## 4. GENERAL PLAN BUILDOUT

This chapter describes the anticipated traffic conditions and necessary roadway improvements under the General Plan Buildout scenario, which anticipates growth to approximately 14,200 residents.

### General Plan Buildout Roadway Operations

#### Average Daily Traffic

**Figure 6** shows average daily traffic volumes (two-way total) based on the General Plan Buildout land use and roadway network inputs discussed in Chapter 3. Under these conditions, average daily traffic on East Grant Avenue near the I-505 interchange would increase from 13,800 vehicles to approximately 32,000 vehicles. Immediately west and east of Railroad Avenue, Grant Avenue is projected to carry approximately 20,000 and 22,400 daily vehicles, respectively, compared with 7,780 and 11,140 daily vehicles today.

Average daily traffic volume on Railroad Avenue would increase due to the buildout of the northern portion of the City. North of Moody Slough Road, Railroad Avenue would carry 5,800 daily vehicles, compared to 1,500 daily vehicles today. Through downtown Winters, Railroad Avenue would carry approximately 9,800 daily vehicles, up from 5,700 daily vehicles today.

In this scenario, Moody Slough Road serves a critical role in providing east-west parallel capacity to Grant Avenue, allowing motorists to travel between the I-505 interchange and neighborhoods in the northern portion of the City. Moody Slough Road is projected to carry more than 10,000 daily vehicles that would otherwise rely on Grant Avenue for east-west access. East Main Street, Timber Crest Road, and Matsumoto Lane would all provide connections to the I-505 interchange from Moody Slough Road.

#### Level of Service

**Figure 7** illustrates General Plan Buildout PM peak hour traffic volumes and level of service for roadways within Winters. Most of the future circulation network would operate at acceptable LOS, except for the following locations:

- Roadway Segments
  - Grant Avenue – Morgan Street to I-505 NB Ramps (LOS E/F)
- Intersections
  - Grant Avenue / Main Street (LOS F)

- East Grant Avenue / Dutton Street (LOS F)
- East Grant Avenue / Walnut Lane (LOS F)
- East Grant Avenue / Morgan Street (LOS F)
- East Grant Avenue / East Main Street (LOS F)
- East Grant Avenue / Timber Crest Road (LOS F)
- East Grant Avenue / I-505 SB Ramps (LOS E)
- Moody Slough Road / East Main Street (LOS E)
- Moody Slough Road / Timber Crest Road (LOS E)

### Signal Warrants

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The following unsignalized intersections meet the peak hour signal warrant under General Plan Buildout conditions:

- East Grant Avenue / Morgan Street
- East Grant Avenue / East Main Street
- East Grant Avenue / Timber Crest Road
- East Grant Avenue / I-505 SB Ramps
- Railroad Avenue / Moody Slough Road
- Moody Slough Road / East Main Street
- Moody Slough Road / Timber Crest Road

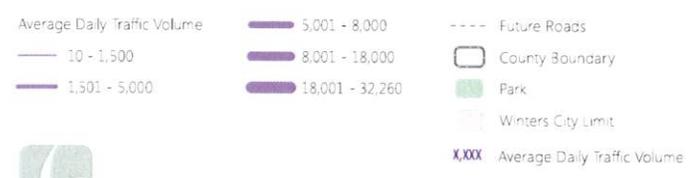
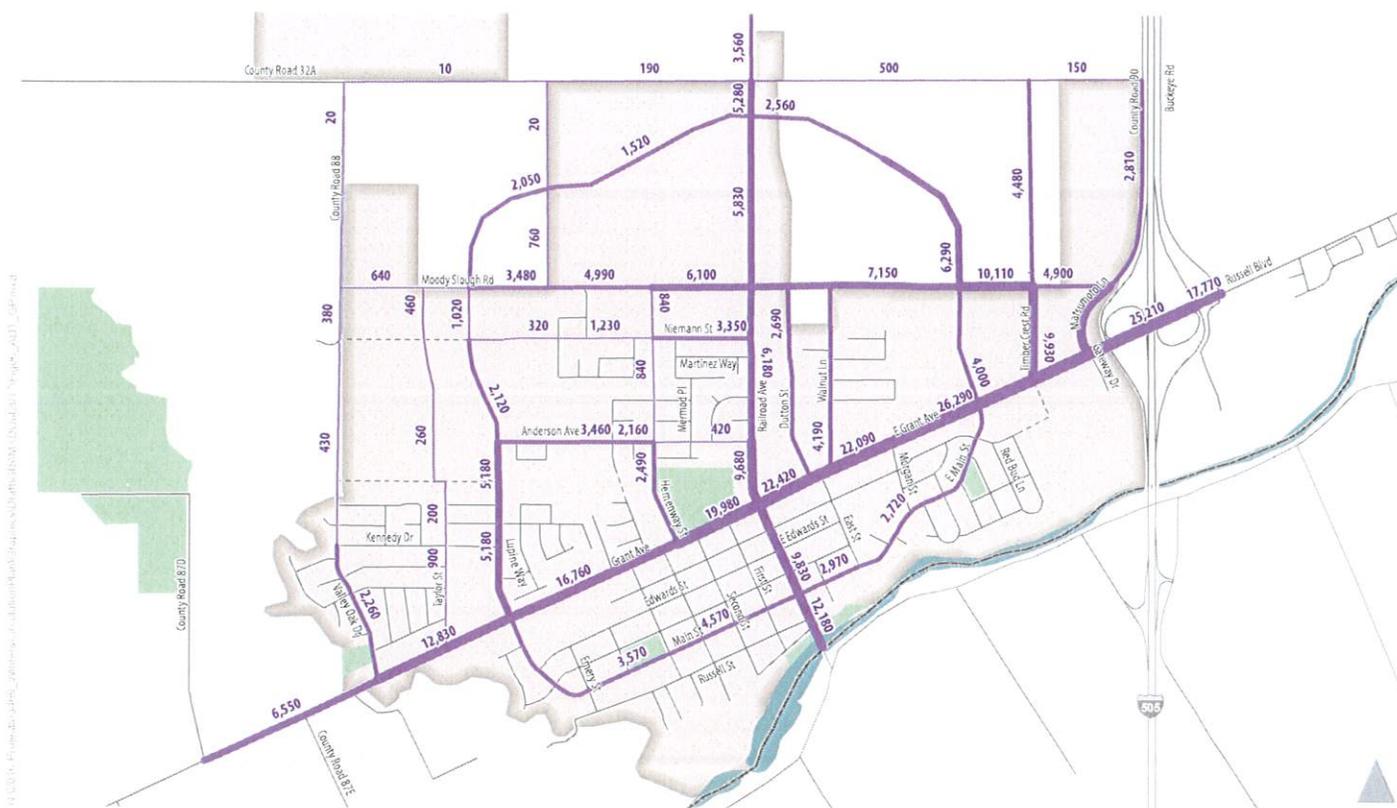


Figure 6

### Average Daily Traffic Volume General Plan Buildout





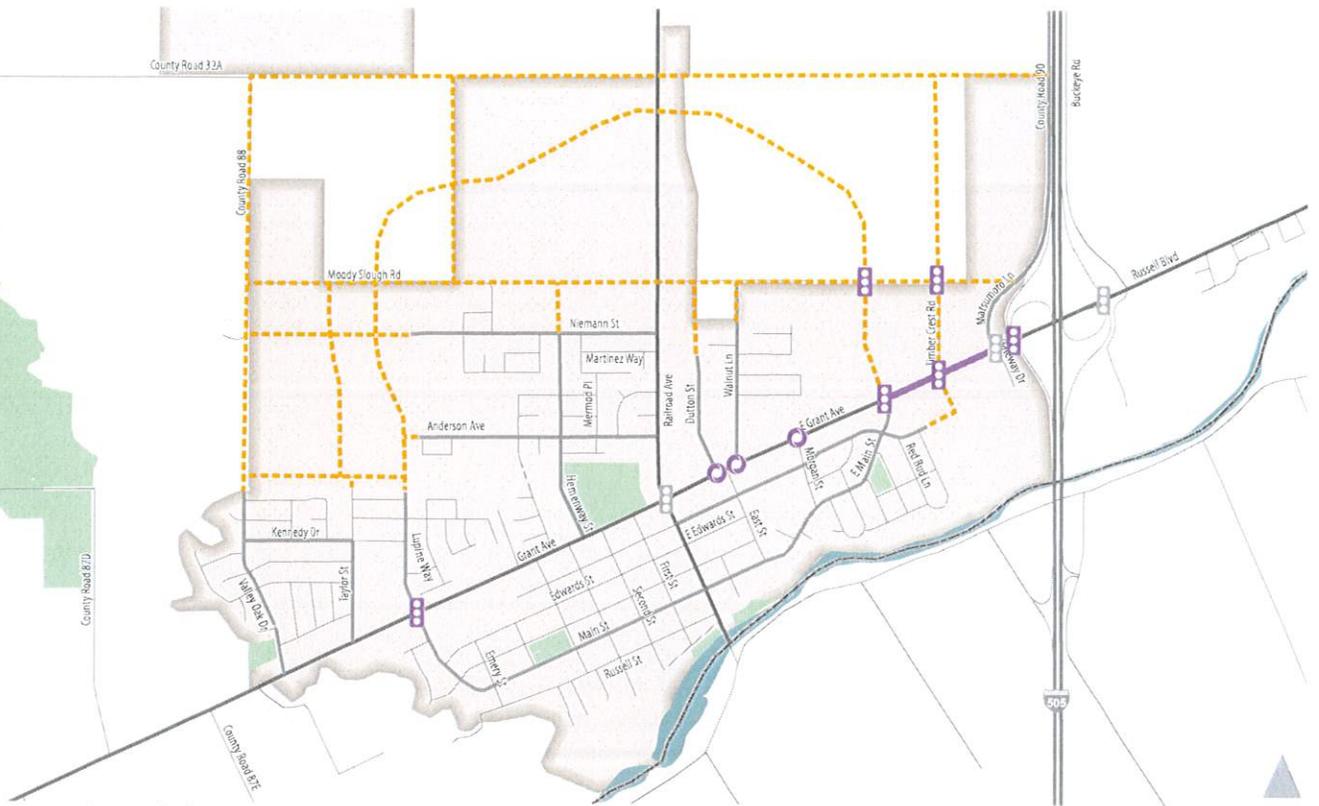
## General Plan Buildout Roadway Improvements

**Figure 8** illustrates the proposed roadway and intersection improvements that are needed between existing conditions and General Plan Buildout conditions to provide acceptable traffic operations. These include:

- Traffic Signal
  - Grant Avenue / Main Street
  - East Grant Avenue / East Main Street
  - East Grant Avenue / Timber Crest Road
  - East Grant Avenue / I-505 SB Ramps
  - Moody Slough Road / East Main Street
  - Moody Slough Road / Timber Crest Road
- Roundabout
  - East Grant Avenue / Dutton Street
  - East Grant Avenue / Walnut Lane
  - East Grant Avenue / Morgan Street
- Roadway Widening
  - East Grant Avenue – East Main Street to I-505 SB Ramps – 2 to 4 lane widening

The implementation of these projects, in addition to the development of the future circulation framework, would improve roadway operations to acceptable conditions. **Figure 9** illustrates the PM peak hour traffic volume and level of service with the proposed improvement projects under General Plan Buildout conditions.

R:\GIS\Projects\GIS\Winters\Winters\_General\_Plan\_Buildout\GIS\Map\_Series\Roadway\_Buildout



Roadway Classification			
Existing	Future		
Highway\Freeway	Highway\Freeway	2 to 4 Lane Widening	County Boundary
Arterial	Arterial	Existing Traffic Signal	Park
Collector	Collector	Future Traffic Signal	Winters City Limit
Local	Local	Future Roundabout	

Figure 8

## Roadway Improvements General Plan Buildout







## 5. ROADWAY IMPACT FEES

This section summarizes the roadway impact fee calculation methodology, presents the impact fee for new development, and presents a methodology for calculating impact fees for different development types.

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### Impact Fee Introduction

Assembly Bill 1600 (AB 1600) created a mechanism for assessing new development for the cost of infrastructure investment needed to serve new residents and businesses. Sections 66000-66008 of the California Government Code, which are based on AB 1600, stipulate that a local government must take the following steps to establish an impact fee:

- Identify the purpose of the fee.
- Identify the use to which the fee is to be put.
- Determine how there is a reasonable relationship between the fee's use and the development type on which it is imposed.
- Determine how there is a reasonable relationship between the need for the facility and the type of development on which the fee is imposed.
- Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is stipulated.

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### Purpose of the Impact Fee

The purpose of the impact fee is to mitigate the effect of future development on traffic conditions. The fees will help to fund improvements needed to maintain the target level of service in response to higher traffic volumes brought on by developments in the City.

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### Use of the Impact Fee

AB 1600 requires that the local government identify the public facilities that are to be financed through the use of the impact fee. One of the purposes of this document is to satisfy this requirement by determining where and what type of improvements will be needed to serve future increases in traffic.

## Determining the “Reasonable Relationships”

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AB 1600 requires the local government to determine how there are “reasonable relationships” between:

1. The use of the impact fee and the development type on which it is imposed;
2. The need for the facility and the type of development on which the fee is imposed; and
3. The amount of the impact fee and the facility cost attributable to the development project.

To determine the “use” relationship, the development being assessed an impact fee must be reasonably shown to derive some use or benefit from the facility being built using the fee. Most drivers in the new developments can be expected to use the facilities identified in this study, and those that do not would benefit because new roadways would keep drivers from diverting to other roads and causing congestion in other parts of the City. Even residents or workers in the new developments who do not drive at all would benefit from access to goods and services made possible in part by the serviceability of the road.

To determine the “need” relationship, the facilities to be financed must be shown to be needed at least in part because of the new development. In the case of this document, the roadway improvements are consistent with those necessary for the buildout of the future General Plan Buildout Scenario described in Chapter 4. This scenario was chosen for the purposes of deriving impact fees because it represents a reasonably foreseeable growth scenario as anticipated by City staff over a 20-year planning horizon.

The “amount” relationship requires that there be a reasonable proportionality between the fee charged to each type of development and the cost of the facility being financed. In the case of the City of Winters, the traffic using the facility will come from a number of sources, including existing land uses, new residential and non-residential development, and sources outside the City. Because there are no existing roadway deficiencies within the City, new development will bear the full cost of necessary roadway improvement projects in the fee program.

## Commercial Fee Adjustments

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During the process of calculating roadway impact fees, non-residential land uses (e.g., retail, office, etc.) are typically at a disadvantage due to their high trip generation characteristics compared to residential land uses. This results in relatively high per unit commercial fees, which can deter potential commercial development. This is a particular concern for jurisdictions where retail sales represent a significant source of revenue.

To address this issue, the roadway impact fee calculation methodology described below shifted a portion of the fees from commercial development to residential development, by demonstrating that the need for commercial development (or a portion thereof) is the result of new residential development. This is the basis for demonstrating a reasonable relationship between the fee’s use and the development type on

which it is imposed, a requirement of AB 1600. With this approach, overall roadway fee program revenue is maintained.

Information from the U.S. Census Bureau was used in the calculation of this adjustment. Specifically, data regarding the types of jobs located in the City of Winters according to the 2015 American Community Survey (ACS) was extracted to understand the share of 'locally serving' employment versus 'non-locally serving' employment within the City. Locally serving employment such as retail trade and educational services typically cater to local residents, and therefore correspond with the number of residents and amount of residential development in a jurisdiction. Non-locally serving employment such as manufacturing and agriculture typically produce goods that are exported outside of a jurisdiction, and therefore are not directly correlated with the number of local residents.

As summarized in **Table 7**, 58 percent of jobs within the City are considered locally serving. Therefore, 58 percent of the roadway fee program costs initially allocated to commercial land uses can be reasonably shifted to residential land uses. This shift is reflected in the fee calculations described in detail below.

**Table 7:**  
**City of Winters Jobs Summary**

Industry	Job Category	Number of Jobs	Percentage of Jobs
Retail trade	Locally Serving	246	8%
Information	Locally Serving	42	1%
Finance and insurance, and real estate and rental leasing	Locally Serving	182	6%
Prof., scientific, and mgmt., and admin. and waste mgmt. services	Locally Serving	378	12%
Educational services, and health care and social assistance	Locally Serving	781	24%
Other services, except public administration	Locally Serving	106	3%
Public administration	Locally Serving	170	5%
<b>Locally Serving Jobs Subtotal</b>		<b>1,905</b>	<b>58%</b>
Agriculture, forestry, fishing and hunting, and mining	Non-Locally Serving	166	5%
Construction	Non-Locally Serving	209	6%
Manufacturing	Non-Locally Serving	380	12%
Wholesale trade	Non-Locally Serving	179	5%
Transportation and warehousing, and utilities	Non-Locally Serving	252	8%
Arts, entertainment, and rec., and accommodation and food services	Non-Locally Serving	177	5%
<b>Non-Locally Serving Jobs Subtotal</b>		<b>1,363</b>	<b>42%</b>

Source: American Community Survey, 2015.

## Roadway Impact Fee Calculation Methodology

The following steps outline the methodology used to compute the roadway impact fees. This methodology relies on PM peak hour vehicle miles traveled (VMT) as the basis of dwelling unit equivalent (DUE) calculations, since roadway systems are typically designed to accommodate peak traffic volumes that occur during this time period.

1. Identify roadway improvements necessary to address future roadway deficiencies.
2. Determine roadway improvements that are to be included in the citywide roadway impact fee program and improvements that would be fully funded by specific development projects.
3. Calculate the cost of proposed roadway improvements that are to be included in the citywide roadway impact fee program.
4. Calculate the total cost that is to be used for the roadway impact fee program by subtracting existing funding allocated to proposed roadway improvements.
5. Determine the number of units of each land use type that are anticipated to be developed.
6. Determine the number of new PM peak hour VMT by individual units of each land use type using the trip generation rates from the City of Winters TDF model, average trip lengths from the City of Winters TDF model, and typical primary trip percentages for each land use type from the ITE Trip Generation Manual.
7. Determine a preliminary DUE factor for each land use type by dividing the respective PM peak hour VMT by the PM peak hour VMT for the single family dwelling unit land use type.
8. Determine a revised DUE factor for each land use type by shifting a portion of the commercial land use fee burden to residential land use types commensurate with the amount of locally serving jobs present in the City of Winters.
9. Determine a final DUE factor for each land use type by dividing the revised DUE factors for each land use type by the revised DUE factor for the single family dwelling unit land use type.
10. Divide the total cost of the proposed roadway improvements by the total final DUE for all new land uses to calculate the improvement cost per single family DUE.
11. Multiply the improvement cost per single family DUE by the final DUE factor for each land use type to determine the improvement cost per unit for each land use type.

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## Impact Fee Calculations

This section describes the roadway impact fee calculations.

### Impact Fee Program Roadway Improvements

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**Figure 10** displays the roadway improvement projects included in the fee program. As discussed previously, these projects are necessary based on the estimated growth under the future General Plan Buildout Scenario. The fee program excludes future roadway improvement projects that are fully funded. The fee program also excludes projects that the City would require to be incorporated into individual land development projects.

Individual roadway improvement projects in the fee program include:

- Traffic Signal
  - East Grant Avenue / East Main Street
  - East Grant Avenue / I-505 SB Ramps
- Roundabout
  - East Grant Avenue / Morgan Street
- Roadway Widening
  - East Grant Avenue – East Main Street to I-505 SB Ramps – 2 to 4 lane widening



## Roadway Improvement Cost Estimates

**Table 8** summarizes the estimated improvement costs for the roadway fee program.

<b>Table 8: Roadway Improvement Project Cost Estimates</b>		
<b>Project Type</b>	<b>Location</b>	<b>Cost</b>
Traffic Signal	East Grant Ave. / East Main St.	\$1,860,625
Traffic Signal	East Grant Ave. / I-505 SB Ramps	\$2,232,750
Roundabout	East Grant Ave. / Morgan St.	\$2,275,000
2 to 4 Lane Widening	East Grant Ave. – East Main St. to I-505 SB Ramps	\$1,799,120
<b>Total</b>		<b>\$8,167,495</b>

Note: Costs estimates include construction, design, and administrative expenses related to each specific project.

Source: Laugenour & Meikle and Fehr & Peers, 2017.

## Roadway Impact Fee Calculation

**Table 9** summarizes the calculation of the roadway impact fees per DUE based on the land use growth under the General Plan Buildout Scenario and the total roadway improvement cost attributable to new development. The fee schedule includes DUE rates per unit of development for several land use categories based on PM peak hour VMT using average trip lengths and trip generation rates from the City of Winters TDF model. This method for calculating impact fees creates a better nexus between land use developments and their impact on traffic operations, because it considers the specific trip generation characteristics of different land uses as they relate to pass-by trips and trip length.

To estimate the roadway impact fee for a particular development, multiply the impact fee per unit in the second-to-last column by the total amount of land use included in a proposed development project.

**Table 9:  
Detailed Roadway Impact Fee Calculations**

Land Use Category	Land Use Growth	PM Peak Hour Trip Rate per Unit	Avg. Trip Length	% New Trips	New PM Peak Hour VMT per Unit	Prelim. DUE Factor per Unit	Prelim. DUE	DUE Shift for Local Business <sup>1</sup>	Revised DUE	Revised DUE Factor per Unit	Final DUE Factor per Unit	Impact Fee per Unit	Total Fee Contribution
Rural Residential	36 DU	0.95	1.14	100%	1.08	1.00	36	24	60	1.67	1.00	<b>\$3,142 per DU</b>	\$113,109
Single Family Residential	595 DU	0.95	1.14	100%	1.08	1.00	595	397	992	1.67	1.00	<b>\$3,142 per DU</b>	\$1,869,444
1 & 2 Family Residential	540 DU	0.95	1.14	100%	1.08	1.00	540	360	900	1.67	1.00	<b>\$3,142 per DU</b>	\$1,696,639
Multifamily Residential	891 DU	0.66	1.14	100%	0.76	0.70	622	415	1,038	1.16	0.70	<b>\$2,195 per DU</b>	\$1,955,501
High Density Residential	318 DU	0.66	1.14	100%	0.76	0.70	222	148	370	1.16	0.70	<b>\$2,195 per DU</b>	\$697,923
Neighborhood Commercial	236 ksf	10.82	0.98	50%	5.32	4.90	1,157	671	486	2.06	1.24	<b>\$3.88 per sf</b>	\$916,135
Central Business District	42 ksf	5.05	0.98	50%	2.48	2.29	96	56	40	0.96	0.58	<b>\$1.81 per sf</b>	\$76,158
Highway Service Commercial	36 ksf	60.24	0.97	10%	5.84	5.38	194	112	81	2.26	1.36	<b>\$4.26 per sf</b>	\$153,430
Office	217 ksf	1.35	1.04	80%	1.12	1.04	225	130	94	0.43	0.26	<b>\$0.82 per sf</b>	\$177,839
Light Industrial	611 ksf	0.82	1.04	80%	0.68	0.63	385	223	162	0.26	0.16	<b>\$0.50 per sf</b>	\$304,508
Heavy Industrial	371 ksf	0.45	1.04	80%	0.37	0.35	128	74	54	0.14	0.09	<b>\$0.27 per sf</b>	\$101,336
Hotel	212 rooms	1.02	0.96	70%	0.68	0.63	133	77	56	0.26	0.16	<b>\$498 per room</b>	\$105,473
<b>Residential Subtotal</b>							<b>2,016</b>	<b>1,344</b>	<b>3,360</b>				<b>\$6,332,616</b>
<b>Non-Residential Subtotal</b>							<b>2,318</b>	<b>1,344</b>	<b>974</b>				<b>\$1,834,879</b>
<b>Grand Total</b>							<b>4,333</b>		<b>4,333</b>				<b>\$8,167,495</b>

Note: 1. 58% of non-residential preliminary DUE shifted to residential land use types, per Winters locally serving jobs from ACS 2015.  
Source: Fehr & Peers, 2017 and American Community Survey, 2015.





**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairman and Planning Commissioners  
**DATE:** October 23, 2018  
**FROM:** David Dowswell, Contract Planner   
**SUBJECT:** Public Hearing and Consideration of proposed amendments to Chapter 5.36 Street Vendors and Title 17 (Zoning Ordinance) regarding sidewalk and stationary food vendors operating within city limits.

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**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

- 1) Receive the staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Recommend the City Council find the proposed amendments Categorically Exempt from CEQA, Class 1 Section 15301 (Existing Facilities) and Class 4 Section 15304 (Minor Alterations to Land); and
- 4) Recommend the City Council adopt the proposed Ordinance 2018-06 amending Chapter 5.36 Street Vendors and Title 17 (Zoning Ordinance).

**BACKGROUND:** On May 23, 2018 Contract Planner Dowswell discussed with the planning commission an application to allow a food truck (Buckhorn) to sell food on the property located at 3 Grant Avenue (Winters General Store).

On July 24, 2018 the Planning Commission discussed a number of possible changes to Chapter 5.36 Street Vendors Ordinance and Title 17 Zoning Ordinance regarding stationary food vendors

On August 8, 2018 Sam Donlevy, Management Intern, held a meeting with representatives from the businesses located on East Main Street and Main Street. At the meeting there were two major topics of discussion, the proximity of food trucks from schools and the creating a clearer Exhibit A map.

On September 17, 2018 Governor Brown signed into law Senate Bill (SB) 946 (Attachment A) which regulates sidewalk vendors. This new law requires numerous changes to our current regulations, which are included in the draft ordinance (Attachment B).

On September 25, 2018 a study session was held where comments from the two planning commissioners and the public were taken regarding the regulation of stationary food vendors (food trucks). At the study session most people spoke in support of allowing food trucks. Stan Lester questioned why the draft ordinance did not allow for food trucks to locate on Main Street.

Presently, Yolo County has a simple 4 step process for stationary and mobile food trucks to locate within the county. These steps are:

- Stationary or mobile food vendor approval to operate in the county
- Processing and approval for application to sell within the county
- Inspection of vehicle and labeling of tags and legal permitting
- Finalized approval to operate within the county

While these vendors are able to operate in the county, our current ordinance does not allow for county approved stationary vendors (food trucks) to operate within city limits.

**ANALYSIS:** The amendments to Chapter 5.36 Street Vendors would add Section **5.36.080** regarding stationary food vendors and Section **5.36.180** regarding temporary permits. There are four key components to the proposed amendments:

#### Mobile Food Vendors

Staff is not proposing and significant changes to the regulations governing mobile food trucks in Section 5.36.060B.

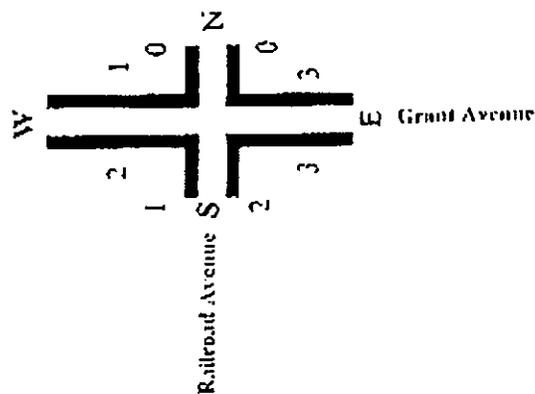
#### Stationary Food Vendors (Food Trucks)

**Location.** Currently stationary food vendors, which could include food trucks, are only permitted to locate at the intersection of Grant Avenue and Railroad Avenue from Grant Avenue east to Dutton Street on the north side of the street and to East Street on the south side of Grant Avenue; both sides of Railroad Avenue south to Baker Street; west on Grant Avenue three-hundred (300) feet as shown in the image below. No stationary food vendors are permitted north of Railroad Avenue, nor are they permitted within fifty (50) feet of the high school campus. "Special use permits" are required from the Planning Commission.

The illustration below pertains only to stationary food vendors wanting to locate at the intersection of Railroad Avenue and Grant Avenue. Staff is proposing to expand allowing "stationary food vendors" (food trucks) , with a conditional use permit, to locate

in C-1, C-2 and C-H zones (Land Use/Zone Matrix in Chapter 17.52.020) and to locate in the D-A and D-B zones on Railroad Avenue, Grant Avenue and Secondary Streets (Table 17.58.2). "Stationary food vendors" would not be allowed to locate on Main Street. Staff is also proposing in these five zones food trucks would need to be separated 200 feet from another food truck.

At the meeting with the Main Street business owners the owners of Kountry Kitchen wanted the ability for a food truck to locate on their property. According to the illustration below only one (1) food truck is allowed at the northwest intersection/corner of Grant and Railroad Avenues. Staff is not recommending this restriction limiting this corner to only one food truck be changed. Currently there is an application pending before the Planning Commission for a Buckhorn food truck to locate on the property at northwest side of the intersection of Grant and Railroad Avenues (3 Grant Avenue). If this application were approved, and the restriction limiting this corner to one (1) food truck is not changed, the owners of Kountry Kitchen could not apply to have a food truck on their property.



**Size:** At the July 24, 2018 Planning Commission meeting staff discussed limiting the size of stationary food vendors (food trucks). The Commission felt having an actual size limit might result in a situation where a food truck which exceeded the dimensions would not be allowed. That language has been removed from the draft ordinance. The size of the food truck could be determined during the use permit process rather than including it as part of the ordinance.

**Marketability:** Staff is proposing stationary food vendors be allowed to provide benches, tables, chairs, and other such materials to improve the dining experience of those seeking to dine at their business. Staff is recommending that all provided equipment/materials associated with the food truck must be removed when the food truck is not open for business and must be stored offsite. Allowing materials to be stored onsite could be considered as a part of the use permit process.

**Permits:** Staff is looking to add to the ordinance permits that feature short term lengths of stay for vendors. This is specifically catered to stationary food vendors that would be

in town for short periods of time compared to stationary food vendors or carts that function for times ranging from weeks to months. Staff is also proposing that only “stationary food vendors” be required to obtain a use permit.

**Other:** Staff is also proposing a number of amendments to Title 17 (Zoning Ordinance), they include adding to Section 17.04 Definitions a definition for “stationary food vendor”, amending the Land Use Matrix in Chapter 17.52.020 by adding “stationary food vendors” as a conditional use in C-1, C-2 and C-H zones. Staff is also proposing to amend Table 17.58.2 in the Form Based Code adding “stationary food vendors” as a conditional use D-A and D-B zones on Railroad and Grant Avenues and on secondary streets. Staff is proposing food trucks not be allowed on Main Street. In reality there are very few locations on Main Street (Buckhorn catering) Classic Cuts, next to First Northern Bank, and the former Main Street Cellars) that have any off-street parking. In all of these cases there likely is not any surplus parking available for a food truck to locate.

There are a number of cities that have ordinances which regulate stationary food vendors (food trucks). The City of Sacramento has one of the most current ordinances, which is provided as information (Attachment C).

### Sidewalk Vendors

With the adoption of SB 946 (Attachment A) many of the City’s existing regulations in Chapter 5.36 are no longer legal requiring them to be updated.

**Location:** Currently sidewalk vendors are allowed to operate within the city but only at the intersection of Railroad and Grant Avenues. With the adoption of SB 946 sidewalk vendors may locate on any public street or public parks. City’s may prohibit stationary sidewalk vendors in residential neighborhoods and may restrict the hours roaming sidewalk vendors can vend in residential neighborhoods. Staff is proposing that roaming sidewalk vendors only be allowed to vend from 9:00 am to 5:00 pm.

**Size:** At the July 24, 2018 Planning Commission felt having an actual size limit for food trucks might result in a situation where a food truck, which exceeded the dimensions, would not be allowed. Staff, however, is proposing limiting the size of sidewalk vendor stands and carts to eight feet in height and length and four feet in width. Staff believes it is necessary to limit their size so they do not block sidewalks.

**Marketability:** Staff is proposing sidewalk vendors be allowed to display a small A-frame sign to advertise themselves so long as the sign does not impede the use of the sidewalk. Staff is also proposing there be a way for a sidewalk vendor to dispose trash if they are not located near a trash container.

**Permits:** Staff is recommending a sidewalk vendor permit be required. This permit would be issued for one year but could be extended by the zoning administrator.

Sidewalk vendors, like all businesses, will be required to have a business license and County health department clearance. The sidewalk vendors often seen in town do not have a business license or health department clearance.

**ATTACHMENTS:**

- A. SB 946 Sidewalk Vendors Law
- B. Draft Ordinance 2018-06 showing proposed amendments to Chapter 5.36 Street Vendors and Title 17 (Zoning Ordinance) of the Winters Municipal Code.
- C. Excerpts of the City of Sacramento's Food Vending Vehicle Ordinance



**SB-946 Sidewalk vendors.** (2017-2018)

SHARE THIS:



Date Published: 09/17/2018 09:00 PM

**Senate Bill No. 946**

## CHAPTER 459

An act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, relating to sidewalk vendors.

[ Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018. ]

## LEGISLATIVE COUNSEL'S DIGEST

SB 946, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending and the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority, as defined, from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill would provide that a local authority is not required to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the provisions of the bill. The bill would apply these provisions to a chartered or general law city, county, or city and county.

The bill would require a local authority that elects to adopt a sidewalk vending program to, among other things, not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. The bill would authorize a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The bill would also authorize a local authority to prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, as specified, and to restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, as specified. A violation would be punishable only by an administrative fine, as specified, pursuant to an ability-to-pay determination, and proceeds would be deposited in the treasury of the local authority.

The bill would require the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors that have not reached final judgment. The bill would also authorize a person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, as specified, to petition for dismissal of the sentence, fine, or conviction.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

**ATTACHMENT A**

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

**SECTION 1.** (a) The Legislature finds and declares all of the following:

- (1) Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities.
- (2) Sidewalk vending increases access to desired goods, such as culturally significant food and merchandise.
- (3) Sidewalk vending contributes to a safe and dynamic public space.
- (4) The safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending.
- (5) The safety and welfare of the general public is promoted by prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations.
- (6) This act applies to any city, county, or city and county, including a charter city. The criminalization of small business entrepreneurs, and the challenges that those entrepreneurs face as a result of a criminal record, are matters of statewide concern. Further, unnecessary barriers have been erected blocking aspiring entrepreneurs from accessing the formal economy, harming California's economy in the process, and disrupting the regulation of business, which is a matter of statewide concern. Moreover, California has an interest in the regulation of traffic, a matter of statewide concern, whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk.

(b) It is the intent of the Legislature to promote entrepreneurship and support immigrant and low-income communities.

**SEC. 2.** Chapter 6.2 (commencing with Section 51036) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

**CHAPTER 6.2. Sidewalk Vendors**

**51036.** For purposes of this chapter, the following definitions apply:

- (a) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.
- (b) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- (c) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.
- (d) "Local authority" means a chartered or general law city, county, or city and county.

**51037.** (a) A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039.

(b) Nothing in this chapter shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

(c) Nothing in this chapter shall be construed to require a local authority to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the requirements in this chapter.

**51038.** (a) A local authority may adopt a program to regulate sidewalk vendors in compliance with this section.

(b) A local authority's sidewalk vending program shall comply with all of the following standards:

(1) A local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.

(2) (A) A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

(B) Notwithstanding subparagraph (A), a local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:

(i) Directly related to objective health, safety, or welfare concerns.

(ii) Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities.

(iii) Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

(3) A local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.

(4) (A) A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.

(B) Notwithstanding subparagraph (A), a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.

(5) A local authority shall not restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the local authority, unless the restriction is directly related to objective health, safety, or welfare concerns.

(c) A local authority may, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:

(1) Limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street.

(2) Requirements to maintain sanitary conditions.

(3) Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

(4) Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license, provided that the local authority issuing the permit or business license accepts a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the local authority otherwise requires a social security number for the issuance of a permit or business license, and that the number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

(5) Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit.

(6) Requiring additional licenses from other state or local agencies to the extent required by law.

(7) Requiring compliance with other generally applicable laws.

(8) Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:

(A) The name and current mailing address of the sidewalk vendor.

(B) A description of the merchandise offered for sale or exchange.

(C) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

(D) The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.

(E) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

(d) Notwithstanding subdivision (b), a local authority may do both of the following:

(1) Prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(2) Restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(e) For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

**51039.** (a) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038 is punishable only by the following:

(A) An administrative fine not exceeding one hundred dollars (\$100) for a first violation.

(B) An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.

(C) An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.

(2) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

(3) (A) If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):

(i) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.

(ii) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.

(iii) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.

(B) Upon proof of a valid permit issued by the local authority, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.

(b) The proceeds of an administrative fine assessed pursuant to subdivision (a) shall be deposited in the treasury of the local authority.

(c) Failure to pay an administrative fine pursuant to subdivision (a) shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision (a) shall not be assessed.

(d) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the

jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law.

(2) Notwithstanding any other law, paragraph (1) shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

(e) A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

(f) (1) When assessing an administrative fine pursuant to subdivision (a), the adjudicator shall take into consideration the person's ability to pay the fine. The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to subdivision (a).

(3) The local authority may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

(g) (1) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under the act that added this section had that act been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to dismiss the sentence or fine, if applicable, and dismiss and seal the conviction, because the sentence, fine, and conviction are legally invalid.

(3) Unless requested by the petitioner, no hearing is necessary to grant or deny a petition filed under paragraph (1).

(4) If the court that originally sentenced or imposed a fine on the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

(5) Nothing in this subdivision is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner.

(6) Nothing in this subdivision or related provisions is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this chapter.

**SEC. 3.** The Legislature finds and declares that Section 2 of this act, which adds Section 51038 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The Legislature finds and declares that in order to protect the privacy of a sidewalk vendor with regard to his or her California driver's license or identification number, individual taxpayer identification number, or municipal identification number, when that number is collected in lieu of a social security number for purposes of the issuance of a permit or business license, it is necessary that the sidewalk vendor's number be confidential, except as provided in this act.



ORDINANCE NO. 2018 – 06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING CHAPTER 5.36 (STREET VENDORS) AND CHAPTER 17.04 (INTRODUCTORY  
PROVISIONS AND DEFINITIONS), CHAPTER 17.52.020 (LAND USE/ZONE MATRIX AND  
TABLE 17.58.2 (PERMITTED USES, FORM-BASED CODE FOR DOWNTOWN) OF THE  
WINTERS MUNICIPAL CODE

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to amend various sections of the text in the Winters Municipal Code (the "Municipal Code") necessary to regulate Stationary, Mobile and Sidewalk Food Vendors.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Amendments to Title 17. The City hereby makes the following amendments to Title 17 of the Municipal Code:

a. Chapter 5.36 of the Municipal Code is hereby amended to read as follows:

**Chapter 5.36**  
**~~STREET~~FOOD VENDORS**

Sections:

<u>5.36.010</u>	<del>Purpose</del> <b>Findings</b> .
<u>5.36.020</u>	Definitions.
<u>5.36.030</u>	Permit.
<u>5.36.040</u>	Application for permit.
<u>5.36.050</u>	Revocation of permit.
<u>5.36.060</u>	<del>Regulations—Motor-Food vending</del> vehicles.
<u>5.36.070</u>	<del>Sidewalk vendors</del>
<u>5.36.0980</u>	Violation—Nuisance.
<u>5.36.1090</u>	Insurance.
<u>5.36.1400</u>	Fees.
<u>5.36.1210</u>	Renewals.
<u>5.36.1320</u>	Enforcement.
<u>5.36.1430</u>	No preemption.
<u>5.36.1540</u>	Violation—Penalty.
<u>5.36.1650</u>	Nuisance—Injunction.
<u>5.36.160</u>	<del>Temporary Permits</del>

**5.36.010 FindingsPurpose.**

The city recognizes the right of its citizenry to be relatively free from noise and obstruction when traversing the city streets. The city also recognizes the right of its citizenry to purchase reliable products from responsible vendors without a fixed place of businesses. The city by this regulatory chapter seeks to balance those competing interests. The city finds that the cost of this regulation should be borne by those individuals, companies and groups which seek to benefit financially from street vending or mobile food vending, since it should be their burden to insure to the Winters citizens that their sales of goods shall be done in a manner least obstructive to their right to travel.

**5.36.020 Definitions.**

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"City" means city of Winters.

"Food vending vehicle" includes any motor vehicle from which food or beverages are sold directly to a customer; does not include vehicles that involve the delivery of food or beverages ordered by home delivery customers.

"Public street or sidewalk" includes all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, and any other public way.

"Mobile food vendor" means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle on any public street.

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only for a brief time to complete a transaction.

"Sidewalk vendor" means a person who sells food, beverages or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, in a public park, upon a public sidewalk or other pedestrian path.

"Stationary food vendor" means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle located on private property for more than four (4) hours in a single day.

"Stationary sidewalk vendor" means any person who sells food, beverages or merchandise from a fixed location from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon public sidewalk or other pedestrian path, newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered with the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

~~“Vendor” means any person who operates a food vending vehicle, stand or cart, including an agent or employee of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle, or from his or her person.~~

**5.36.030 Permit.**

It is unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street or on private property in the city without first securing a permit and paying the fee therefor.

**5.36.040 Application for permit.**

Application for a permit shall be made upon a form provided by the city. The applicant shall truthfully state in full the information requested on the application:

- A. Name and address of present place of residence and length of residence at such address; also business address if other than present address;
- B. Address of place of residence during the past three (3) years if other than present address;
- C. Age of applicant;
- D. Physical description of applicant;
- E. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents, and the length of time of such employment or representation;
- F. Name and address of employer during the past three (3) years if other than the present employer;
- G. Description sufficient for identification of the type of commodity or commodities to be vended;
- H. Period of time for which the permit is applied;
- I. The date, or approximate date, of the last previous application for permit under this chapter, if any;
- J. If a permit is issued to the applicant under this chapter has ever been revoked;

~~K. If the applicant has ever been convicted of a violation of a felony under the laws of the state of California or any other state or federal law of the United States;~~

~~L. Names of commodities;~~

~~MK. —Names of the three (3) most recent communities where the applicant has engaged in street vending;~~

**Comment [DD1]:** The City Attorney does not see the relevance of this restriction. A convicted felon who has served their time shouldn't be prevented from obtaining a permit.

**Comment [DD2]:** Redundant. See "G" above.

NL. Proposed method of operation;

OM. Signature of applicant;

PN. Social Security Number of applicant.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The applicant shall submit to fingerprinting by the police department of the city in connection with the application for the permit.

The city clerk shall cause to be kept in his or her office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of applications.

Applications for permits shall be numbered in consecutive order as filed, and every permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

No permit shall be issued to any person who has been convicted ~~of the commission of a felony under the laws of the state or any other state or federal law of the United States, within five years of the date of the application; nor to any person who has been convicted~~ of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided.

Comment [DD3]: See comment DD1 above.

#### 5.36.050 Revocation of permit.

Any permit issued hereunder shall be revoked by the chief of police if the holder of the permit is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter. Immediately upon such revocation, written notice thereof shall be given by the chief of police to the holder of the permit in person or by certified United States Mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the permit shall become null and void.

The permit shall state the expiration date thereof.

#### 5.36.060 ~~Regulations—Food vending Motor~~ vehicles.

The following rules and regulations shall be complied with by each person ~~using~~operating a food vending vehicle ~~for street vending~~.

##### A. Food Vendors

It shall be unlawful for any ~~street vendor~~ food vendor to ~~sell or attempt to sell any commodity~~:

1. ~~Sell or attempt to B~~by means of any outcry, sound, speaker or amplifier, or any instrument ~~or device which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, or a church or other place of worship during the hours when services are being held; which~~ violates the City of Winters noise ordinance contained in Chapter 8.20.

2. ~~Sell W~~within five hundred (500) feet of any school or publicly owned property at any time unless a ~~special~~ use permit is approved by the ~~community development department~~ planning commission. A ~~special~~ use permit shall not be required for fundraising activities/special sales/events which are sponsored by the school district or approved by the City.

**Comment [DD4]:** This restriction would apply to mobile and stationary food vendors. Should they be the same? Probably should not apply to mobile food vendors?

**Comment [DD5]:** Too important of an issue to approve at the department level.

3. ~~It is unlawful for any such vendor t~~To use, play or employ the use of, any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loud speaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale.

**Comment [DD6]:** Seems redundant. See "A" above.

4. ~~The use by any such vendor of any outcry, sound, amplifier, loudspeaker, radio, phonograph with a loud speaker or amplifier or any instrument or device which emits a loud sound shall be prohibited prior to nine a.m. or after seven p.m.~~

**Comment [DD7]:** This section was deleted because it essentially says the same thing as the section above.

#### B. Mobile Food Vendors

It ~~is shall be~~ unlawful for any mobile food vendor to:

1. Exceed a speed of twelve (12) miles an hour when ~~crusing~~ driving through neighborhoods seeking sales or when attempting to make a sale;
2. Make more than two (2) stops in any one (1) block to make any sale;
3. Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale;
4. Double park, or park in any manner contrary to any ordinance relating to parking when making a sale or attempting to make a sale ~~or when making a sale~~;
5. Make a U-turn on any block;
6. Drive a vehicle backwards when making a sale or to make or attempting to make any sale;
7. Sell to any person who is standing in the street;
8. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;
9. Remain standing or stopped at any place for a period of time exceeding ten (10) minutes;

**Comment [8]:** Changed the wording the same as the wording in section s 1-3 above.

**Comment [DD9]:** Same as Comment #4 above.

10. Conduct business within twenty (20) feet of any handicappeddisabled parking space or access ramp;

11. Sell or attempt to sell along any particular route more than two (2) times during a twenty-four (24) hour period.

~~5.36.070 Regulations—Stands:~~

~~Vendors with stands must comply with the following regulations:~~

**Comment [DD10]:** Not sure why this section exists. It appears to be redundant.

~~A.— Hours of Operation. Vendors shall be allowed to engage in the business of vending only between the hours of nine a.m. and seven p.m., Monday through Saturday. No vending from stands shall be permitted on Sundays and observed holidays, except by appointment and approval from the city of Winters police department.~~

~~B.— All vending stands must be removed from public property during non-vending hours.~~

~~C.— Vendor stands shall not:~~

~~1.— Exceed eight feet in length, eight feet in width, or eight feet in height;~~

~~2.— Impede access to the entrance of any adjacent building or driveway;~~

~~3.— Occupy more than half of the available sidewalk width or five feet of such sidewalk, whichever is less;~~

~~4.— Locate within twenty (20) feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space, access ramp, fire station driveway, or police department driveway.~~

~~D.— All trash and debris accumulating within fifty feet of a stand shall be collected by the vendor and deposited in a trash container. (Ord. 91-10 § 2 (part); prior code § 10-5.507)~~

C. Stationary Food Vendor

Stationary food vendors shall comply with the following:

1. A use permit shall be obtained from the planning commission to allow a stationary food vendor except as allowed by subsection C2 below. The permit shall be processed in accordance with and subject to the use permit requirements contained in Chapter 17.20.

2. A special permit shall be obtained from the City to allow a stationary food vendor to participate in an event approved by the City.

3. Locate on privately owned land not within enclosed buildings on permanent foundations or in a public right-of-way.

4. Stationary food vending vehicles shall be designed so they add aesthetic value to the vicinity. Design elements should include the use of umbrellas, overhangs, or other attractive shading devices, and temporary landscaping.

4. Hours of operation may be limited as determined by the planning commission. Minor modifications to the hours of operation may be approved by the zoning administrator.

5. Provide a trash container immediately adjacent to the food vending vehicle. Trash container must be removed from the site during non-vending hours. Additionally, vendors must maintain the cleanliness of their site within twenty-five (25) feet surrounding their site.

6. Be limited to one (1) freestanding, non-illuminated sign, not exceeding four (4) feet in any dimension, to be placed within ten (10) feet of the stationary food vendor. These regulations do not include any graphics or signs painted directly onto the vehicle. No sign shall impede vehicle traffic, pedestrian right of way, or pedestrian personal vehicle traffic (bike lanes). No stationary food vendor signs shall be located within the Caltrans right-of-way.

7. Have a certificate of compliance from the county health department, as appropriate. Additionally, vendors must complete the Reciprocity Checklist of Yolo County.

8. Stationary food vending vehicles are permitted in the vicinity of Grant Avenue and Railroad Avenue along three (3) corridors from the intersection. Grant Avenue east to Dutton Street on the north side of the street and to East Street on the south side of Grant; both sides of Railroad Avenue south to Baker Street; west on Grant Avenue three-hundred (300) feet. In order to prevent the overconcentration of stationary food vendors in the vicinity of Grant Avenue and Railroad Avenue, the number and location of stationary food vendors shall be limited pursuant to Exhibit A in subsection 5.68.070C.

9. Stationary food vendors shall not be permitted north of Grant Avenue on Railroad Avenue and within two-hundred (200) feet from another stationary food vendor. Specialty events approved by the City may be exempted from the separation requirements.

**Comment [DD11]:** At the meeting with the business community Kountry Kitchen wanted there not be a separation requirement. Two hundred (200) feet is the distance from the existing Verduzco's food truck and the proposed Buckhorn food truck.

10. Stationary food vendors shall be prohibited from having chairs and tables for customer use unless approved by the planning commission. Any chairs and tables must be stored off site unless previously stated approval of the property owner is declared during the application process.

11. Stationary food vendors must comply with American Disabilities Act and other accessibility access standards.

12. Stationary food vendor permits may be revoked upon there being just cause.

-13. Stationary food vendors operating in parking lots must minimize the amount of parking spaces they are utilizing and cannot impede traffic flow entering, leaving, or within the parking lot.

14. Stationary food vendors operating adjacent to, or within close proximity to a traffic intersection cannot visually impair drivers utilizing said intersection.

#### **5.36.070 Sidewalk vendors.**

The following provisions shall regulate sidewalk vending stands and carts or other operations deemed similar by the zoning administrator, which operate on publicly owned land or parks not

within enclosed buildings. Nothing in this section shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

1. A business license shall be obtained from the City to allow a sidewalk vendor. The permit shall be processed in accordance with the requirements contained in Chapter 5.04.

2. Stationary sidewalk vendors shall be prohibited from selling in residentially zoned neighborhoods.

3. Roaming sidewalk vendors are permitted to sell in residentially zoned neighborhoods; hours of operation shall be between 9:00 am and 5:00 p.m. Hours of operation in nonresidential areas shall be consistent with the hours of other businesses operating in the nonresidential area as determined by the zoning administrator.

4. All sidewalk vending stands, carts, signs, refuse containers and other material set up or provided by the vendor must be removed from the vending site during non-vending hours.

5. Sidewalk vending stands and carts shall not exceed eight (8) feet in height, eight (8) feet in length and four (4) feet in width; not impede access to the entrance of any adjacent building or driveway; not impede pedestrian right of way, or pedestrian personal vehicle traffic (bike lanes); not be located on sidewalks where there is not on-street parking immediately adjacent; and must comply with American Disabilities Act and other accessibility access standards.

6. Sidewalk vending stands and carts shall not be located within twenty (20) feet of a fire hydrant, fire escape, bus stop, loading zone, disabled parking space, access ramp, fire station or police department driveway.

7. Sidewalk vendors shall supply a way to dispose of trash if an existing trash container does not exist within twenty-five (25) feet of the stand or cart. Additionally, sidewalk vendors must maintain the cleanliness of their site and within twenty-five (25) feet surrounding their site.

8. Sidewalk vending stands and carts shall be designed so they add aesthetic value to the vicinity. Design elements should include the use of umbrellas, awnings, or other attractive shading devices.

9. Sidewalk vending stands and carts shall be prohibited from having a signs except those that are limited to one (1) freestanding, non-illuminated sign not exceeding four (4) feet in any dimension, to be attached to or placed within ten (10) feet of the stand or cart. These regulations do not include any graphics or signs painted directly onto the vending stand or cart. No sign shall impede vehicle traffic, pedestrian right-of-way, or pedestrian personal vehicle traffic (bike lanes). No sidewalk vendor signs shall be located within the Caltrans right-of-way.

10. Sidewalk vendors shall obtain a certificate of compliance from the county health department, as appropriate. Additionally, vendors must complete the Reciprocity Checklist of Yolo County.

11. Sidewalk vendors locating near an intersection shall not create a sight distance problem.

12. Sidewalk vendors wanting to vend within a city park may vend only during those hours the park is open. Sidewalk vendors may not vend within a city park during a city-approved event when there is an exclusive agreement with one or more concessionaires.

13. In order to prevent an overconcentration of vending stands and carts, due to traffic safety concerns the number and location of sidewalk vendors at the intersection of Grant Avenue and Railroad Avenue shall be limited, pursuant to Exhibit A at the end of this section.

14. Sidewalk vendors shall be prohibited from having tables and chairs for customer use unless the vendor is located in a given area that has adequate sidewalk width or is specifically designed for such purpose such as a plaza, park or other public open space area with adequate restroom facilities.

15. Sidewalk vendor permits may be revoked upon there being just cause.

16. Sidewalk vendor permit shall expire in one (1) year and may be extended upon zoning administrator approval.

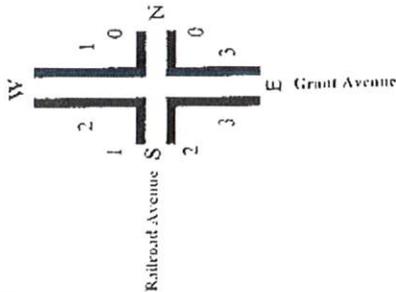


Exhibit A

**5.36.0980 Violation—Nuisance.**

It is declared to be unlawful and shall constitute a nuisance for any person to violate the terms of this chapter.

**5.36.01490 Insurance.**

No permit shall be issued to an applicant unless the applicant furnishes proof to the city of a public liability bond or insurance policy in an amount not less than three hundred thousand dollars (\$300,000.00) for property damage and bodily injury liability, including injury resulting in death, caused by the applicant.

**5.36.1200 Fees.**

The city shall by resolution establish fees for the issuance of permits sufficient to offset the city's cost of regulation of street vendors. These fees shall be supplemental to any business license fees charged to street vendors. Both fees shall be payable upon application. The fees charged under this chapter shall be nonrefundable. Permits shall be valid for one (1) year from the date of issuance, unless sooner revoked as provided herein.

**5.36.1310 Renewals.**

Renewals shall be done on an annual basis. Application for renewals of permits shall be received no later than thirty (30) days prior to the expiration of the applicant's permit, or shall be processed as new applications. The city may review applications for renewal to determine that:

- A. The applicant is in full compliance with the provisions of this chapter;
  - B. The applicant has a currently effective insurance policy in the minimum amount provided in this chapter, or as amended by subsequent resolution of the Winters city council.
- If the city finds that the applicant meets the above requirements, the city shall issue a new permit.

**5.36.14020 Enforcement.**

Enforcement shall be implemented by the city manager or through a city staff person designated by him or her. In addition, any Winters police officer is authorized to enforce the provisions of this chapter. Such person shall have authority to issue citations based upon reasonable cause in a manner most suitable to the particular incident.

**5.36.1530 No preemption.**

This chapter shall not be interpreted to permit soliciting, or the procedures thereof or redress therefrom, where restricted by state law.

**5.36.1450 Violation—Penalty.**

Any person, firm, corporation, or organization which violates any provision of this chapter shall, upon conviction thereof be subject to the maximum allowable fine pursuant to the requirements set forth in state law.

Upon conviction thereof, punishment shall be a fine subject to the maximum allowable pursuant to the requirements set forth in state law, or imprisonment for a term not exceeding six (6) months, or by both a fine and imprisonment.

**5.36.1750 Nuisance—Injunction.**

Any violation of this chapter is declared to be a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

**5.36.1860 Temporary Permits**

Temporary permits provided to vendors are strictly regulated and shall provide guidelines in which vendors must abide by. These permits will be range in costs and shall be adjusted based on the length of time in which the food vendor is serving within the city limits and shall go into effect upon approval from the City and shall expire upon the designated time noted on the approved permit.

b. Subdivision (B) of Section 17.04 of the Municipal Code is hereby amended to read as follows:

Chapter 17.04

INTRODUCTORY PROVISIONS AND DEFINITIONS

B. Definitions.

"Stable" means a detached accessory building for the shelter of horses or similar hoofed animals.

"Stationary food vendor" means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle located on private property for more than four (4) hours in a single day.

"Street line (right-of-way)" means the boundary between an existing or proposed street right-of-way and abutting property.

**17.52.020 Land Use/Zone Matrix.**

**LAND USE/ZONE MATRIX**

KEY:

C= Conditional Use

P= Permitted Use

T= Temporary Use

Zoning Designations:

- (A-1) General Agricultural Industrial Park
- (R-R) Rural Residential
- (R-1) Single-Family Residential Industrial
- (R-2) One-and Two-Family Public/Quasi-Public
- (R-3) Multifamily Residential
- (R-4) High Density Residential
- (C-1) Neighborhood Commercial
- (C-2) Central Business District
- (C-H) Highway Service Commercial
- (O-F) Office
- (B/P) Business
- (M-1) Light Industrial
- (M-2) Heavy
- (PQP) Residential
- (PD) Planned Development

AGRICULTURAL USES																	
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Agricultural Operation	P	C															P
Animal Production	P																C
Businesses and Uses Prohibited by State or Federal Law																	
COMMERCIAL AND OFFICE USES																	
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Adult Entertainment											C	C					

Automobile Repair, Major							C	C			C	C	P					
Automobile Repair, Minor							P	P	P		P							
Bar, Cocktail Lounge							C	C										
	A-1	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*		
Bed and Breakfast Inn			C	C	C	C		C										
Business Service							P	P		P	P							
Businesses and Uses Prohibited by State or Federal Law																		
Financial Institutions							P	P		P	P							
Equipment Sales, Rental, Repair							P	P			P							
Funeral Parlor								P			C							
Hotel, Motel								C	C									
Nurseries	P						P	P			C	C						
Office, Business and Medical							P	P		P	P							
Outdoor Sales							C	C			C							
Personal Retail Services							P	P										
Personal Storage								C			C	C			C	C		
Recreation, Indoor or Outdoor							C	C			C	C						
Recreational Vehicle Park									C		C							
Restaurant							P	P	P		C							
Restaurant, Drive-Through							C	C	P									
Retail Sales, General							P	P	C		C							

Roadside Stand	P	C					C	C										
Service Station							P	P	P		P							
<u>Stationary Food Vendor</u>							<u>C</u>	<u>C</u>	<u>C</u>									
Veterinary Hospital, Kennel	C						C	P										
INDUSTRIAL USES																		
	A-1	R-1	R-2	R-3	R-4	R-1	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*	
Businesses and Uses Prohibited by State or Federal Law																		
Finished Goods Assembly											P	P	P					
Heavy Equipment Terminal											C	C	P					
Laboratory, Research, Equipment										C		C	C					
Manufacturing, Heavy General													C					
Manufacturing, Light General												C	P					
Mineral Extraction	C												C	C		C		
Recycling Center Collection							P	P			P	P	P					
Recycling and Salvage Yards													C					
Warehouse, Wholesale, Freight Terminal												C	P					
PUBLIC & QUASI-PUBLIC USES																		

	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Assembly Hall/Community Services	C	C					C	C		C	C			C	C		
Businesses and Uses Prohibited by State or Federal Law																	
Cemetery	C													C		C	
Communication Equipment Facility	C	C			C	C	C	C	C	C	C	P	P	C	C	C	
Convalescence and Care Services		C	C	C	C	C	C							C			
Cultural Facility						C	C							C	C		
Day Care, General		C	C	C	C	C				C	C			C			
Emergency Shelter					P	P		P						P			
Government Offices										C	C			C	C		
Hospital										C	C			C			
Public Parks	C	C	C	C			C	C	C					C	C	C	
Religious Institutions	-	-	C	C	-	-	C	C	-	C	C	-	-	C	-	-	-
Safety Services							C	C		C	C			C			
Utility Services, Major	C	C												C	C	C	C
Utility Services, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Vocational Training Facility														C			
RESIDENTIAL USES																	
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2**	C-H	O-F	B/P	M-1	M-2	PQP	P-R	O-S	P-D*
Accessory Dwelling Units		P	P	P													



1. Affordable or market rate duplexes are allowed on all corner lots in the R-1 and R-2 zones citywide.
  2. Only if an existing historical structure is planned for relocation to a C-2 zone that adjoins a residential district.
  3. A single residential unit is allowed at a business located in the central business district zone (C-2) upon planning commission approval of a conditional use permit (CUP), while multifamily residential is allowed above a business in the C-2 zone upon planning commission approval of a CUP. A residential unit proposed for a first floor area must be occupied by the property owner or licensed business proprietor, at least four hundred (400) square feet in size, and located at the rear of the business. No more than twenty (20) percent of the existing first floor area can be converted into residential uses and the existing first floor area must be at least two thousand (2,000) square feet in size.
  4. Manufactured homes and factory-built homes located on a permanent foundation are allowed in the specified zones by right or upon planning commission approval of a conditional use permit (CUP).
  5. For single farmworkers, single room occupancy housing is permitted.
- \* All PD uses per PD permit, and as consistent with the general plan.

Also see: Chapter 17.36 (Design Review). Design review may be required, including for land uses which are otherwise permitted by this title, depending upon the type and location of the development project proposed.

\*\* A commercial use operating from a residential structure originally constructed as a residential structure can be converted from a commercial use to a residential use.

**17.58.050 Allowed use regulations.**

This section lists allowed uses by zoning district within the downtown form-based code area. The zoning districts are shown on the regulating plan (Figure 17.58-1). This list is not meant to be comprehensive and does not regulate building character or design, but instead delineates the types of uses allowed within a building. These allowed use regulations are unique to this chapter and are intended to implement the vision of the 2006 Winters downtown master plan.

A. Principally Permitted Uses. The following table identifies the permitted uses within the downtown. These allowed use regulations are listed by street type, then by zoning district (D-A or D-B), as applicable. The uses listed are defined in subsection B of this section (Definitions of Permitted Uses). The symbols in the table are defined as:

P—Permitted Use

C—Conditionally Permitted Use

N—Not Permitted

c. Subdivision (A) of Section 17.58.050 of the Municipal Code is hereby amended to read as follows:

**Table 17.58-2: Permitted Uses**

Uses	Main Street		Railroad Avenue		Secondary Streets		Grant Avenue	
	D-A	D-B	D-A	D-B	D-A	D-B	D-A	D-B
Attached Single-Family Residential	N	N	N	N	N	P	N	N
Banks and Financial Institutions	P	P	P	P	P	C	P	P
Bars, Pubs and Cocktail Lounges	C	C	C	C	N	N	C	C
Bed and Breakfast Inns	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P	P	P <sup>1</sup>	P
Businesses and Uses Prohibited by State or Federal Law	N	N	N	N	N	N	N	N
Child Day Care	N	N	N	N	C	C	N	C
Commercial Recreation and Entertainment	C	C	C	C	N	N	C	C
Detached Single-Family Residential	N	C	N	N	C	P	N	N
Farmworker Housing Unit	C <sup>1,3</sup>	P	C <sup>1,3</sup>	C <sup>1,3</sup>				
Farmworker Housing Complex						P <sup>3</sup>		
Government/Institutional	P	P	P	P	P	C	P	P
Hotels or Motels	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P	P <sup>1</sup>	P
Live/Work Units	C	P	P	P	P	C	N	C
Mixed-Uses	P	P	P	P	P	C	C	P
Multifamily Residential	C <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P	N	P <sup>1</sup>
Neighborhood Commercial	P	P	P	P	P	C	C	N
Offices	P	P	P	P	P	C	P	P
Personal Services	P	P	P	P	P	C	C	P

Religious Institutions	C	C	C	C	N	N	C	C
Retail Commercial	P	P	P	P	P	N	P	P
Service Stations	N	C	C	C	N	N	C	C
Single Room Occupancy	C <sup>1</sup>							
Sit-Down Restaurants <sup>2</sup>	P	P	P	P	C	C	P	P
Specialized Agriculture and Processing	C	C	C	C	C	C	C	C
<u>Stationary Food Vendor</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

Notes:

<sup>1</sup> Only on the second floor or above.

<sup>2</sup> Drive-thrus are not allowed within the downtown form-based code area (see Section 17.58.070(A)(2)(d)).

<sup>3</sup> For single farmworkers, single room occupancy housing is permitted.



**Chapter 5.68 FOOD VENDING VEHICLES****Note**

\* Prior history: prior code §§ 42.05.100—42.05.111 and Ords. 2013-0021, 2012-050 and 2008-008.

**Article I. General Provisions****5.68.005 Purpose and findings.**

Food vending vehicles benefit our community by providing services to those who live and work in areas where food may not be readily available. In addition, they offer an entrepreneurial opportunity for the people in our community to open a small business and provide unique foods that may not be available at brick-and-mortar restaurants.

The city also needs to protect the public by ensuring that these large vehicles are operated in a safe manner and do not create nuisances in our neighborhoods. Reasonable regulations are necessary to ensure that food vending vehicles are operated in accordance with health laws of the state; do not block or hinder vehicle or pedestrian traffic on our streets and sidewalks; do not cause public safety problems by contributing to crowding near schools and entertainment establishments; and do not disturb the quiet use and enjoyment of our residential neighborhoods. Therefore, the regulations in this chapter are enacted in accordance with the authority granted in Section 22455 of the California Vehicle Code. (Ord. 2015-0016 § 1)

**5.68.010 Definitions.**

As used in this chapter, the following definitions apply:

“Director” means the city’s director of finance, or designee.

“Driver permit” means a food vending vehicle driver permit.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” does not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Heavy commercial and industrial zoning districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Property permit” means a food vending vehicle property permit.

“Residential zoning districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, and RO zoning districts as established pursuant to Title 17.

“Vehicle permit” means a food vending vehicle permit.

“Vendor” means any person who operates a food vending vehicle. (Ord. 2015-0016 § 1)

**5.68.015 Violations.**

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to Chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

D. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof. (Ord. 2015-0016 § 1)

**Article II. Food Vending Vehicle Permits**

**5.68.020 Food vending vehicle permit required.**

A. No person shall operate a food vending vehicle unless a food vending vehicle permit issued pursuant to this chapter is in effect for that food vending vehicle.

B. Every permittee, upon receipt of a vehicle permit, shall maintain the permit with the vehicle for which it is issued, at all times the food vending vehicle is being operated.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present the vehicle permit that is in effect for that vehicle.

D. All vehicle permits are the property of the city and each shall authorize the operation of a single specific food vending vehicle. No person shall sell or transfer, or attempt to sell or transfer, any vehicle permit. (Ord. 2015-0016 § 1)

**5.68.030 Vehicle permit application.**

A. An application for a food vending vehicle permit shall be filed with the director and shall contain the following:

1. The individual and business name, address, and telephone number of the permit applicant;

2. Written evidence that the applicant is an owner, lessee or holder of a similar interest in the food vending vehicle;

3. The name and address of all legal and registered owner(s) of the food vending vehicle, and each person with a financial interest in the business that operates the food vending vehicle;

4. A copy of a valid business operations tax certificate issued pursuant to Chapter 3.08;

5. The state vehicle license plate number and the vehicle identification number of the food vending vehicle;

6. Proof of compliance with the insurance requirements set forth in Section 5.68.060;

7. Proof that the vehicle is in compliance with applicable requirements of the state of California and the county of Sacramento regarding the operation of a food vending vehicle;

8. The address where the food vending vehicle is stored when not in use;

9. For each person with a ten (10) percent or greater financial interest in the business that operates the food vending vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a ten (10) percent or greater financial interest in the business that operates the food vending vehicle during the life of the permit issued pursuant to this chapter shall immediately so notify the director and comply with this subsection. Any holder of a valid food vending vehicle driver permit issued pursuant to Section 5.68.100 shall be exempt from the requirements of this subsection;

10. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a vehicle permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a vehicle permit. (Ord. 2015-0016 § 1)

**5.68.040 Vehicle permit issuance and denial.**

A. Except as provided in subsection C of this section, a food vending vehicle permit shall be issued by the director upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.030, and after the director has:

1. Physically inspected the food vending vehicle to ensure compliance with this code and the California Vehicle Code equipment requirements; provided, however, that the director may accept proof of compliance with state of California or Sacramento County inspection requirements for operating a food vending vehicle in lieu of conducting an inspection; and

2. Determined that the business location and vehicle storage location, if within the city, comply with applicable zoning regulations and other codes.

B. A vehicle permit may be denied by the director on any of the following grounds:

1. The information submitted pursuant to Section 5.68.030 is materially false or incomplete;

2. The applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has any unpaid administrative penalties imposed pursuant to Chapter 1.28;

3. Within twelve (12) months of the date of application, the applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has had his or her vehicle permit revoked;

4. The applicant has not paid the applicable business operations tax pursuant to Chapter 3.08; or

5. A person with ten (10) percent or greater financial interest in the operation of the food vending vehicle has been convicted of a crime, and the time for appeal has elapsed,

irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit him or herself, or another, or substantially injure another, or having the effect of substantially injuring another.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (B)(5) only if the director finds that the crime or act is substantially related to the qualifications, functions or duties of a food vending vehicle owner or owner of a business which operates food vending vehicles or has substantial contact with minors. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under California Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal CodeSection 4852.01, et seq. (Ord. 2015-0016 § 1)

**5.68.045 Term of vehicle permit—Renewal.**

A. All food vending vehicle permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid vehicle permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to ninety (90) days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Vehicle permit renewals may be issued or denied in accordance with the provisions of Section 5.68.040.

E. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid vehicle permit. (Ord. 2015-0016 § 1)

**5.68.050 Posting requirements.**

A. No person shall operate a food vending vehicle unless the food vending vehicle permit decal, as provided by the director, is displayed on the vehicle window in a manner specified by the director.

B. No person shall operate a food vending vehicle unless the food vending vehicle number, as provided by the director, is permanently posted on the exterior of the vehicle and in a location that is clearly visible to patrons. The numbers shall be legible, not less than

three and one-half inches in height and in a color that contrasts with the color of the background upon which it is placed. (Ord. 2015-0016 § 1)

**5.68.060 Liability insurance.**

A. During the term of a food vending vehicle permit issued pursuant to this chapter, the permittee or owner(s) of a food vending vehicle authorized by the permit shall maintain in full force and effect at no cost to the city a comprehensive auto and general liability insurance policy:

1. In an amount not less than one million dollars (\$1,000,000.00) single limit per occurrence; and

2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and

3. Providing that the city, its officers, employees and agents are named as additional insureds under the policy; and

4. Covering all losses and damages as specified in Section 5.68.070; and

5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder; and

6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the vehicle permit, without thirty (30) days' written notice to the director prior to the effective date of such cancellation or change in coverage.

B. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with subsection A of this section, the permittee shall notify the city of the cancellation, expiration, or change within three business days after its effective date by submitting a written notice to the director. The giving of notice as provided herein shall not stay the automatic suspension of the permit pursuant to Section 5.68.220.

C. No person shall operate a food vending vehicle without insurance coverage in effect as required by this section. (Ord. 2015-0016 § 1)

**5.68.070 Indemnify and hold harmless.**

The permittee and food vending vehicle owner(s) shall defend, indemnify and hold harmless the city, its officers, employees and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permittee or the permittee's agents, officers or employees, directly or indirectly arising from the operation of the food vending vehicle. (Ord. 2015-0016 § 1)

**Article III. Food Vending Vehicle Driver Permits**

**5.68.080 Food vending vehicle driver permit required.**

A. No person shall drive a food vending vehicle unless the person holds a valid food vending vehicle driver permit issued pursuant to this chapter.

B. Every driver of a food vending vehicle shall have the valid driver permit issued to him or her in his or her immediate possession at all times when driving a food vending vehicle.

C. Upon demand of a peace officer, or city employee authorized to enforce this chapter, the driver of a food vending vehicle shall present his or her driver permit for examination.

D. All driver permits are the property of the city and each shall authorize a single specific food vending vehicle driver. No person shall sell or transfer, or attempt to sell or transfer, any driver permit. (Ord. 2015-0016 § 1)

**5.68.090 Food vending vehicle driver permit procedure.**

A. Applications for a food vending vehicle driver permit shall be filed with the director and shall contain the following:

1. The name and address of the applicant;
2. The number of a valid state driver license issued to the applicant, authorizing the applicant to drive a food vending vehicle, and date of license expiration;
3. A statement of whether the applicant's state driver license has ever been revoked or suspended and, if so, the reason(s) for such revocation or suspension;
4. A list, signed under penalty of perjury, of each conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which applicant was convicted;
5. A list of the applicant's physical or mental conditions, or any medications being taken, that would interfere with the proper management and control of a motor vehicle;
6. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a driver permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a driver permit. (Ord. 2015-0016 § 1)

**5.68.100 Driver permit issuance and denial.**

A. Except as provided in subsection C of this section, a food vending vehicle driver permit shall be issued by the director:

1. Upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.090;
2. After fingerprinting of the applicant by the police department, if the director so requires; and

3. After submission of four recent dated portrait photographs, one to be attached to the application, one to be attached to the driver permit if issued, and two for the use of the police department.

B. A driver permit shall be denied by the director on any of the following grounds:

1. The applicant failed to comply with the requirements of this section;

2. The information submitted pursuant to Section 5.68.090 is materially false or incomplete;

3. The applicant has any unpaid administrative penalties imposed pursuant to Chapter 1.28 for the violation of provisions of this chapter;

4. Within twelve (12) months of the date of application, the applicant has had his or her driver permit revoked; or

5. The applicant has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or has a physical or mental disability or incapacity, or takes medication, uses alcohol or any controlled substance as defined in the California Health and Safety Code.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (B)(5) only if the director finds the crime, act, disability, incapacity or impairment from a substance consumed is substantially related to the qualifications, functions or duties of a food vending vehicle driver. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under California Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code Section 4852.01, et seq. (Ord. 2015-0016 § 1)

**5.68.105 Term of driver permit—Renewal.**

A. All food vending vehicle driver permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid driver permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to ninety (90) days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Driver permit renewals may be issued or denied in accordance with the provisions of Section 5.68.100.

E. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid driver permit. (Ord. 2015-0016 § 1)

**Article IV. Food Vending Vehicle Property Permits**

**5.68.110 Food vending vehicle property permit required.**

A. No property owner shall allow another person to operate a food vending vehicle on their property for more than thirty (30) minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No property owner shall allow another person to operate a food vending vehicle on their property in violation of any conditions of a property permit or conditional use permit in effect for that property, including but not limited to conditions relating to the number of vehicles allowed and hours of operation.

C. All property permits are the property of the city and each shall authorize the operation of food vending vehicles on a specified property. No person shall sell or transfer, or attempt to sell or transfer, any property permit. (Ord. 2015-0016 § 2)

**5.68.120 Property permit application.**

A. An application for a food vending vehicle property permit shall be filed with the director and shall contain the following:

1. The name, address, and telephone number of the permit applicant;
2. Address and description of the private property upon which the applicant wishes to operate one or more food vending vehicles;
3. Written evidence that the applicant is an owner, lessee, or holder of a similar interest in the private property;
4. The name and address of all owners of the private property;
5. Such other information as may be required by the director to further the purposes of this chapter.

B. Every application for a property permit shall be accompanied by a nonproratable and nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a property permit. (Ord. 2015-0016 § 2)

**5.68.130 Property permits for one or two food vending vehicles.**

A. If the applicant seeks a food vending vehicle property permit that authorizes the operation of one or two food vending vehicles on the subject property, the applicant shall comply with the following:

1. Not later than five days after filing a complete application required by Section 5.68.120, the applicant shall post in a conspicuous place on the property for which the application was submitted, a notice of intent to allow food vending vehicles. The notice shall be provided by the city, and contain:

- a. A heading of "NOTICE OF INTENT TO ALLOW FOOD VENDING VEHICLES ON THIS PROPERTY";
- b. The name of the applicant;
- c. A description of the type of operation sought in the application, including the number of food vending vehicles, the hours of operation, and any other information requested by the director;
- d. The date that the director is required to act on the application, and a request that any comments or questions concerning the application should be communicated to the director prior to that date; and
- e. Notice that the director's decision to grant the application may be appealed pursuant to Article VI of this chapter.

2. No later than five days after filing a complete application required by Section 5.68.120, the applicant shall mail the notice of intent to allow food vending vehicles prescribed in subsection (A)(1) of this section to all owners of property as shown on the latest equalized assessment roll within a radius of five hundred (500) feet of the property that is the subject of the application.

B. Failure of any person to receive notice as required by subsection A of this section shall not affect the validity of any decision of the director.

C. Applications for a property permit shall be investigated by the director. The director shall take into consideration the existing uses of the surrounding properties and any public safety problems or nuisances that the issuance of the permit might create. The director shall also refer every application to the chief of police for a written report concerning any potential public safety problems, and to the planning director for a written report concerning the compatibility of the proposed use of the premises with existing zoning and neighborhood land uses. The director may also consider other sources of information. (Ord. 2015-0016 § 2)

**5.68.140 Property permits for more than two food vending vehicles.**

If the applicant seeks a food vending vehicle property permit that authorizes the operation of more than two food vending vehicles on the subject property at the same time, a valid conditional use permit for an outdoor market issued pursuant to the Planning and Development Code for the subject property is required. The application for a property permit must contain a copy of the conditional use permit, including all conditions of the permit. (Ord. 2015-0016 § 2)

**5.68.150 Property permit issuance and denial.**

A. In issuing a food vending vehicle property permit, the director may impose conditions on the permit relating to public health, safety, and welfare. The conditions may include, but are not limited to, regulations on the time of operations, the sale and consumption of alcohol, security measures, sanitation, restrooms, furniture, and lighting.

B. A property permit may be denied by the director on any of the following grounds:

1. The information submitted in the application for the property permit is materially false or incomplete;

2. The operation of food vending vehicles on the subject property would be a violation of this code, including, but not limited to, the provisions of Articles VII, VIII and IX of this chapter;

3. The operation of food vending vehicles on the subject property, in the director's opinion, would likely cause a public safety problem, create a public nuisance, or would otherwise be contrary to the public interest;

4. The applicant or any owner of the private property has unpaid administrative penalties imposed pursuant to Chapter 1.28 for the violation of provisions of this chapter; or

5. Within twelve (12) months of the date of application, the applicant or any owner of the private property has had a property permit revoked. (Ord. 2015-0016 § 2)

**5.68.160 Notice of decision.**

A. The director shall decide to grant or deny an application for a food vending vehicle property permit in writing within sixty (60) days after the date of application.

B. Within five days after the director's decision, the director shall mail written notice of the decision to the applicant. The notice shall state whether the director issued or denied the property permit, and if the director issued the property permit, whether any conditions were imposed. The notice shall also contain a notification of appeal rights set forth in Article VI of this chapter.

C. The director shall also mail the written notice of the decision to all owners of property as shown on the latest equalized assessment roll within a radius of five hundred (500) feet of the property which is the subject of the application; and post the notice in a conspicuous place on the premises for which the application was submitted.

D. Failure of any person to receive notice as required by subsection B of this section shall not affect the validity of any decision made by the director. (Ord. 2015-0016 § 2)

**5.68.170 Term of property permit—Renewal.**

A. All food vending vehicle property permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid property permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to ninety (90) days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Sections 5.68.130 and 5.68.140 and subsection C of Section 5.68.160 do not apply to applications for the renewal of a valid property permit.

E. Property permit renewals may be issued or denied in accordance with the provisions of Section 5.68.150.

F. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid property permit. (Ord. 2015-0016 § 2)

**5.68.180 Exemption of heavy commercial and industrial zoning districts.**

An owner of private property in a heavy commercial and industrial zoning district is exempt from the food vending vehicle property permit requirement in Section 5.68.110, as it applies to that property. (Ord. 2015-0016 § 2)

**5.68.190 Exemption of construction sites.**

An owner of private property upon which any building or structure is being constructed, demolished, altered, or repaired is exempt from the food vending vehicle property permit requirement in Section 5.68.110, as it applies to that property, during the hours that such activity is taking place, and for the purpose of selling food and beverages to persons engaging in such activity. (Ord. 2015-0016 § 2)

**5.68.200 Exemption of established operations on private property.**

A. An owner of private property shall be exempt from the food vending vehicle property permit requirement in Section 5.68.110 and Chapter 17.232, Nonconforming Uses, if the food vending vehicle permittee operating on the property has an established operation on private property, as provided in this section.

B. A food vending vehicle permittee has an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection A is subject to the following conditions:

1. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;

2. The exemption applies only as long as the property owner's consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as a food vending vehicle permit related to a vehicle operating on the property, is continuously maintained as valid. If the vehicle permit

is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a vehicle permit is subsequently obtained;

4. This exemption applies only as long as the business of operating a food vending vehicle that was operating on the property on March 31, 2008 is continuously operating there. If the business is sold, the new owner may continue to operate a food vending vehicle on the property in accordance with this exemption;

5. This exemption applies to the operation of only one food vending vehicle on the property;

6. A person may only operate a food vending vehicle in accordance with this exemption between the hours of 5:00 a.m. of one day, and 2:00 a.m. of the following day; and

7. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code. (Ord. 2015-0016 § 2)

#### **Article V. Suspension, Revocation, and Modification of Permits**

##### **5.68.210 Grounds for suspending, revoking, or modifying a permit.**

The director may suspend, revoke, or modify any permit issued pursuant to this chapter on any of the following grounds:

A. The director determines that any activity authorized by the permit is being carried out in a manner that constitutes a nuisance, or is injurious to the public health, safety, or welfare;

B. The operation of a food vending vehicle violates any condition of the permit or the conditional use permit of the private property upon which it is operating;

C. The operation of a food vending vehicle violates any provision of this chapter, this code, the Sacramento County Code, state law, or any other applicable law, including, but not limited to:

1. Chapter 5.68 regarding food vending vehicles,

2. Chapter 5.88 regarding outdoor vending,

3. Chapter 10.60 regarding the broadcasting of sound, and

4. The California Retail Food Code (commencing with Section 113700 of the California Health and Safety Code); or

D. There exists any of the grounds that would have been grounds for denial of the permit application. (Ord. 2015-0016 § 3)

##### **5.68.220 Hearing required—Exception.**

A. No permit issued pursuant to this chapter shall be suspended, revoked, or modified until the permittee is provided notice pursuant to Section 5.68.230 and an opportunity to be heard by the director.

B. Notwithstanding subsection A of this section, a permit issued pursuant to this chapter may be suspended or revoked immediately upon the director's determination that any of the following circumstances exist:

1. The food vending vehicle permittee is in violation of the insurance requirements set forth in Section 5.68.060; or
2. Immediate suspension or revocation of the permit is necessary to protect the public health, safety, or welfare.

C. After a permit is immediately suspended or revoked pursuant to subsection B of this section, the permittee shall be provided notice pursuant to Section 5.68.230 and an opportunity to be heard by the director. (Ord. 2015-0016 § 3)

**5.68.230 Notice of hearing.**

A. Notice of a hearing on the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter shall be served on the permittee. The notice shall be in writing and contain a brief statement of the grounds for the action, and the date, time, and location of the hearing.

B. The notice of hearing shall be served personally or by certified mail to the permittee at the address submitted in the permit application at least ten (10) calendar days prior to the hearing. Service by certified mail is complete at the time the notice is deposited in the mail. (Ord. 2015-0016 § 3)

**5.68.240 Notice of decision.**

A. If, after the permittee has had an opportunity to be heard, the director decides to suspend, revoke, or modify a permit issued pursuant to this chapter, the director shall cause written notice of the decision to be served personally or by certified mail to the permittee. The notice shall be in writing and contain:

1. The specific grounds for the decision;
2. A statement that the permittee may appeal the decision by submitting an appeal, in writing to the director, within ten (10) calendar days of the date of service of the notice; and
3. A statement advising that the failure to appeal the decision will constitute a waiver of all rights to an appeal hearing, and the decision will be final. Failure to properly and timely appeal the decision shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the director's decision.

B. The notice of decision shall be served personally or by certified mail to the permittee at the address submitted in the permit application. Service by certified mail is complete at the time the notice is deposited in the mail. (Ord. 2015-0016 § 3)

**5.68.250 Return of the permit.**

A permittee shall return any permit that has been suspended or revoked to the director within three calendar days of the receipt of the notice of the director's decision. (Ord. 2015-0016 § 3)

**Article VI. Appeals**

**5.68.260 Appeal of suspension, revocation, or modification of permit.**

Any permittee aggrieved by the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter, may appeal the decision by filing a written notice of appeal with the director within ten (10) calendar days from the date of service of the notice of decision. (Ord. 2015-0016 § 4)

**5.68.270 Appeal of issuance of food vending vehicle property permit.**

Any aggrieved person may appeal the decision of the director to grant an application for a food vending vehicle property permit by filing a written notice of appeal with the director within twenty-five (25) calendar days from the date of service of the notice of decision. (Ord. 2015-0016 § 4)

**5.68.280 Written notices of appeal.**

- A. A written notice of appeal required by this chapter shall contain:
1. A brief statement in ordinary and concise language of the specific decision appealed;
  2. A brief statement in ordinary and concise language of the reasons why it is claimed the protested decision should be reversed or otherwise set aside, any material facts claimed to support the contentions of the appellant, and the relief sought;
  3. The signatures of all appellants and their official mailing addresses; and
  4. A declaration under penalty of perjury by at least one appellant as to the truth of the matters stated in the notice of appeal. (Ord. 2015-0016 § 4)

**5.68.290 Appeal hearing.**

- A. All appeals shall be heard by a hearing examiner appointed pursuant to Section 8.04.070.
- B. Upon receipt of any appeal filed pursuant to this section, the director shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:
1. If the appeal is received by the director not later than fifteen (15) days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on that date.
  2. If the appeal is received by the director less than fifteen (15) days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on the next subsequent appeal hearing date.
- C. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

D. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the appeal hearing. (Ord. 2015-0016 § 4)

**5.68.300 Failure to appeal.**

Failure of any person to file a timely appeal in accordance with the provisions of this chapter constitutes an irrevocable waiver of the right to an administrative appeal a failure to exhaust administrative remedies. (Ord. 2015-0016 § 4)

**Article VII. Operation—Generally**

**5.68.310 Stopping.**

No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner. (Ord. 2015-0016 § 5)

**5.68.320 Lighting.**

No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties. (Ord. 2015-0016 § 5)

**5.68.330 Utilities.**

No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water, or any other utilities, unless the connection is expressly approved as a condition of a valid food vending vehicle property permit. (Ord. 2015-0016 § 5)

**5.68.340 Signs and furniture.**

No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle. (Ord. 2015-0016 § 5)

**5.68.350 Blocking vehicular and pedestrian traffic.**

While operating a food vending vehicle, vendors shall keep customers and other patrons from blocking all streets, sidewalks, paths, driveways, doorways, and other avenues of vehicular and pedestrian traffic. (Ord. 2015-0016 § 5)

**5.68.360 Maintain area free of trash.**

While operating a food vending vehicle, vendors shall maintain the area surrounding the vehicle free of trash and other debris. Vendors shall provide their customers with a receptacle for garbage and pick up any trash in the area before leaving. Vendors shall not dump garbage or trash generated by the operation of the food vending vehicle in any public or private garbage receptacle that is not owned by or leased to the vendor. (Ord. 2015-0016 § 5)

**5.68.370 Toilet and handwashing facilities.**

A. No person shall operate a food vending vehicle while stopped for more than a one-hour period in any location, or within four hundred (400) feet of that location, unless prior to stopping, the food vending vehicle permittee has provided the director with a copy of the county of Sacramento's approval of readily available toilet and handwashing facilities within two hundred (200) feet travel distance of that location, issued in accordance with Section 114315 of the California Health and Safety Code.

B. A copy of the county's approval shall be maintained with the corresponding food vending vehicle at all times and be posted in a location that is easily visible by patrons.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present a copy of the county's approval that is in effect for that vehicle. (Ord. 2015-0016 § 5)

#### **Article VIII. Operation on the Street**

##### **5.68.380 Operation near other food vending vehicles prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within four hundred (400) feet of any other food vending vehicle. (Ord. 2015-0016 § 6)

##### **5.68.390 Operation near intersection prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within fifty (50) feet of any street intersection controlled by a traffic light or stop sign. (Ord. 2015-0016 § 6)

##### **5.68.400 Operation near outdoor seating prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within one hundred (100) feet of any outdoor seating area of any restaurant, café, or other business. (Ord. 2015-0016 § 6)

##### **5.68.410 Operation near schools restricted.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within four hundred (400) feet of any elementary, middle, junior high, or high school between the hours of 7:00 a.m. and 4:00 p.m. on days that school is in session. (Ord. 2015-0016 § 6)

##### **5.68.420 Operation near entertainment establishments restricted.**

No person shall operate a food vending vehicle while stopped, standing, or parked on the street within one thousand (1,000) feet of any establishment that maintains a valid entertainment permit, issued pursuant to Chapter 5.108, between 1:00 a.m. and 3:00 a.m. (Ord. 2015-0016 § 6)

##### **5.68.425 Operation adjacent to property in a residential zoning district.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked adjacent to any property in a residential zoning district:

A. Later than 8:00 p.m. or earlier than 8:00 a.m. of any day during the months of April, May, June, July, August, September and October; or

B. Later than 6:00 p.m. or earlier than 8:00 a.m. of any day during the months of November, December, January, February, and March. (Ord. 2015-0016 § 6)

**5.68.430 Operation within parking regulations.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked in violation of any parking regulation. (Ord. 2015-0016 § 6)

**Article IX. Operation on Private Property**

**5.68.440 No operation on property in a residential zoning district.**

Notwithstanding any provision of this code to the contrary, no person shall operate a food vending vehicle on private property in a residential zoning district. (Ord. 2015-0016 § 7)

**5.68.450 Property permit required.**

A. No person shall operate a food vending vehicle on private property for more than thirty (30) minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No person shall operate a food vending vehicle on private property in violation of any condition of any applicable property permit or conditional use permit.

C. A person shall be exempt from subsections A and B of this section, if the owner of the private property is exempt from the food vending vehicle property permit requirement in Section 5.68.110, as it applies to that property, pursuant to Article IV of this chapter. (Ord. 2015-0016 § 7)

**5.68.460 Consent required.**

A. No person shall operate a food vending vehicle on private property unless the property owner has given the vendor his or her express written consent to do so.

B. Prior to vending on private property, the written consent of the owner of the property shall be provided to the director, in the form approved by the director.

C. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.

D. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle. (Ord. 2015-0016 § 7)

**5.68.470 Operation on private property—Generally.**

No person shall operate a food vending vehicle on private property if any of the following conditions apply:

A. The food vending vehicle is stopped, standing, or parked in any location on the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;

B. The food vending vehicle is stopped, standing, or parked on any surface that is not paved with concrete, asphalt, or other similar material; or

C. The food vending vehicle is occupying or blocking any parking spaces required for the primary use of the parcel as determined pursuant to Chapter 17.608. (Ord. 2015-0016 § 7)



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairman and Planning Commissioners  
**DATE:** October 23, 2018  
**FROM:** David Dowswell, Contract Planner   
Dan Maguire, Economic Development & Housing Manager   
**SUBJECT:** Public Hearing and Consideration of proposed amendment to the Health and Safety Element of the General Plan by adopting the 2018 Yolo County Operational Area Multi-Jurisdictional Hazard Mitigation Plan Update

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**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

- 1) Receive the staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Recommend the City Council find the proposed amendments Categorical Exempt from CEQA through the use of the "General Rule", Section 15061(b)3; and
- 4) Adopt Resolution 2018-03 recommending the City Council amend the Health and Safety Element of the General Plan by adopting 2018 Yolo County Operational Area Multi-Jurisdictional Hazard Mitigation Plan Update

**BACKGROUND:** The Federal Emergency Management Agency (FEMA) and the Disaster Mitigation Act of 2000 (DMA) require that local jurisdictions have plans in place to mitigate all reasonably known hazards, both natural and man-made. Future hazard mitigation grant funding is contingent upon having FEMA approved hazard mitigation plans in place.

In order to comply with FEMA and DMA and to better prepare our community and region to deal with natural and man-made hazards the Yolo Operational Area Group developed the Yolo Operational Area Multi-Jurisdictional Hazard Mitigation Plan Update. The Yolo

Operational Area Group is comprised of all the cities within the county, the Yocha DeHe tribe, unincorporated regions of the county and special districts.

The current plan which was adopted by the Winters City Council in October of 2012, is several years old and as required by FEMA is due to be updated. A Hazard Mitigation Steering Committee with representatives from each of the local agencies, including the City of Winters, was organized to tackle the job of revising the current plan. Outreach was conducted to ensure the public and non-governmental entities also had a voice in the plan's development.

This document is, in concept, a revision of the previous Local Hazard Mitigation Plan, composed and approved in 2005 and most recently updated and approved in 2012. As part of the process it was then necessary for the plan to be submitted to Cal EMA and FEMA for review before it could come back to the Planning Commission and City Council for formal approval. Yolo County OES staff received a letter dated August 22, 2018 from FEMA determining the plan is eligible for final approval pending its adoption by Yolo County and all participating jurisdictions.

In addition to the FEMA requirements, California AB 2140 allows a local jurisdiction to incorporate their current FEMA-approved local hazard mitigation plan into the Safety Element of the General Plan.

It is now necessary for each jurisdiction in the Operational Area to approve the plan by resolution in order to receive full FEMA approval. The resolution includes language granting authority to the Winters City Manager to amend and update the plan as required by any last minute local changes or due to recommendations from Cal EMA/FEMA. It is however necessary to move forward with the plan as it was approved by Cal EMA in order to not jeopardize our community rating. If the plan is not formally adopted FEMA will not consider the jurisdiction as eligible for any Hazard Mitigation Grant Funds. This agenda item was publicly noticed in the November 8, 2018 edition of the Winters Express.

**RECOMMENDED ACTION:** That the Planning Commission adopt Resolution 2018-03 - Recommending the City Council approve amending the Health and Safety Element of the General Plan by adopting the 2018 Yolo County Operational Area Multi-Jurisdictional Hazard Mitigation Plan.

**ATTACHMENTS:**

- A. Resolution 2018-03 – Amending General Plan by adopting the 2018 Yolo County Operational Area Multi-Jurisdictional Hazard Mitigation Plan
- B. Link to Yolo County Operational Area Multi-Jurisdictional Hazard Mitigation Plan: <https://www.dropbox.com/s/93ac24rrh1k53no/2018%20Yolo%20County%20HMP%20-%20Draft%203.pdf?dl=0>
- C. August 22, 2018 FEMA letter
- D. AB 2140 Background Documents

**RESOLUTION NO. 2018-03**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WINTERS  
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AMENDING THE HEALTH  
AND SAFETY ELEMENT OF THE GENERAL PLAN BY INCORPORATING THE YOLO  
COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN INTO THE ELEMENT**

**WHEREAS**, the Winters Planning Commission held a duly noticed public hearing on October 23, 2018 to review and consider recommending to the City Council approval to amend the Health and Safety Element of the General Plan by incorporating the Local Yolo County Multi-Jurisdictional Hazard Mitigation Plan into the Element; and

**WHEREAS**, the Planning Commission reviewed and considered the amendment to the Health and Safety Element; and

**WHEREAS**, the Planning Commission finds that based on their review the Yolo County Multi-Jurisdictional Hazard Mitigation Plan is consistent with the General Plan and the implementation of the plan in accordance with the California Environmental Quality Act (CEQA), through the use "General Plan", Section 15061(b)3 will have no potential adverse impact on the environment.

**WHEREAS**, proper notice of this public hearing was given in all respects required by law; and

**WHEREAS**, the Planning Commission has reviewed all written evidence and all oral testimony presented to date.

**NOW, THEREFORE, BE IT RESOLVED**, the Planning Commission of the City of Winters, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, recommends the City Council approve amending the Health and Safety Element of the General Plan by incorporating the Yolo County Multi-Jurisdictional Hazard Mitigation Plan, attached hereto as Exhibit 1.

**PASSED and ADOPTED**, by the Planning Commission of the City of Winters at a regular meeting on the 23rd day of October 2018, by the following vote:

AYES

NOES:

ABSTAIN:

ABSENT:

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Chairperson

ATTEST:

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Planning Commission Secretary

**ATTACHMENT A**





FEMA

August 22, 2018

David M. Block  
Emergency Services Planner  
Yolo County Office of Emergency Services  
625 Court Street, Room 202  
Woodland, CA 95695

Dear Mr. Block:

We have completed our review of the *Yolo County Hazard Mitigation Plan*, and have determined that this plan is eligible for final approval pending its adoption by Yolo County and all participating jurisdictions. Please see the enclosed list of approvable pending adoption jurisdictions.

Formal adoption documentation must be submitted to the FEMA Region IX office by the lead jurisdiction within one calendar year of the date of this letter, or the entire plan must be updated and resubmitted for review. We will approve the plan upon receipt of the documentation of formal adoption.

If you have any questions regarding the planning or review processes, please contact Alison Kearns, Senior Community Planner, at (510) 627-7125 or by email at [alison.kearns@fema.dhs.gov](mailto:alison.kearns@fema.dhs.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Juliette Hayes".

fw

Juliette Hayes  
Director  
Mitigation Division  
FEMA, Region IX

Enclosure

cc: Julie Norris, Mitigation and Dam Safety Branch Chief, California Governor's Office of  
Emergency Services  
Jennifer Hogan, State Hazard Mitigation Officer, California Governor's Office of  
Emergency Services



**Assembly Bill No. 2140**

**CHAPTER 739**

An act to add Sections 8685.9 and 65302.6 to the Government Code, relating to local planning.

[Approved by Governor September 29, 2006. Filed with  
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2140. Hancock. General plans: safety element.

(1) The California Disaster Assistance Act limits the state share for any eligible project to no more than 75% of total state eligible costs, except that the state share shall be up to 100% of total state eligible costs connected with certain events.

This bill would prohibit the state share for any eligible project from exceeding 75% of total state eligible costs unless the local agency is located within a city, county, or city and county that has adopted a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 as part of the safety element of its general plan, in which case the Legislature may provide for a state share of local costs that exceeds 75% of total state eligible costs.

(2) The Planning and Zoning Law requires that a city, county, or city and county general plan contain specified elements, including a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other seismic, geologic, and fire hazards.

This bill would authorize a city, county, or a city and county to adopt with its safety element a federally specified local hazard mitigation plan that includes specified elements, and require the Office of Emergency Services to give preference to local jurisdictions that have not adopted a local hazard mitigation plan with respect to specified federal programs for assistance in developing and adopting a plan.

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

SECTION 1. Section 8685.9 is added to the Government Code, to read:

8685.9. Notwithstanding any other provision of law, including Section 8686, for any eligible project, the state share shall not exceed 75 percent of total state eligible costs unless the local agency is located within a city,

county, or city and county that has adopted a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 (P.L. 106-390) as part of the safety element of its general plan adopted pursuant to subdivision (g) of Section 65302. In that situation, the Legislature may provide for a state share of local costs that exceeds 75 percent of total state eligible costs.

SEC. 2. Section 65302.6 is added to the Government Code, to read:

65302.6. (a) A city, county, or a city and county may adopt with its safety element pursuant to subdivision (g) of Section 65302 a local hazard mitigation plan (HMP) specified in the federal Disaster Mitigation Act of 2000 (P. L. 106-390). The hazard mitigation plan shall include all of the following elements called for in the federal act requirements:

(1) An initial earthquake performance evaluation of public facilities that provide essential services, shelter, and critical governmental functions.

(2) An inventory of private facilities that are potentially hazardous, including, but not limited to, multiunit, soft story, concrete tilt-up, and concrete frame buildings.

(3) A plan to reduce the potential risk from private and governmental facilities in the event of a disaster.

(b) Local jurisdictions that have not adopted a local hazard mitigation plan shall be given preference by the Office of Emergency Services in recommending actions to be funded from the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the Flood Mitigation Assistance Program to assist the local jurisdiction in developing and adopting a local hazard mitigation plan, subject to available funding from the Federal Emergency Management Agency.



## Assembly Bill 2140 (AB 2140) Fact Sheet

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### Cal OES Policy for AB 2140 Eligibility

To follow is a summary of the eligibility requirements policy. To be eligible for AB 2140 approval, the local agency must:

- Include specific hazard elements as described in the AB 2140 legislation in the LHMP. If any of these hazards do not apply to the jurisdiction, the LHMP must state this in the hazard assessment.
- Adopt the current LHMP into the Safety Element of the General Plan after the LHMP has received final approval from FEMA.
- Submit proof of their adoption to the California Governor's Office of Emergency Services (Cal OES), Mitigation Planning Division.
- State specifically in the resolution that the LHMP is adopted into the Safety Element of the General Plan.
- If the LHMP is a multiple-jurisdiction plan, each jurisdiction involved must adopt the plan into the Safety Element of its General Plan.
- The date of the AB 2140 adoption resolution must be on or before the Legislature approves CDAA funding after a specific disaster.
- Renew the adoption into the Safety Element of the General Plan each time an LHMP is updated.

For more detailed information, refer to the official Cal OES Policy Requirements to Adopt Local Hazard Mitigation Plans (LHMPs) to Be Eligible for AB 2140

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### Authorities

Assembly Bill 2140, Hancock, General Plans Safety Element, September 2006

California Disaster Assistance Act (CDAA) Section 8685.9

Governor's Office of Planning and Research General Plan Guidelines, chapter 4, page 90, Safety Element

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Section 404, Hazard Mitigation (42 U.S.C. 5170c)\*21 (a)

Disaster Mitigation Act of 2000 - 42 USC 5165, Section 333. Mitigation Planning

- (a) Requirement of Mitigation Plan
  - (d)(2) Maximum Federal Contribution.
  - (e)(1) Increased Federal Share for Hazard Mitigation Measures.
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*Continued*



## Assembly Bill 2140 (AB 2140) Fact Sheet

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### Authorities, continued

44 Code of Federal Regulations – Subchapter D, Part 201 Mitigation Planning

- Section 201.3(c)(2)
- Section 201.5(a) Enhanced State Mitigation Plans
- Section 201.5(b)(1)

California Code of Regulations, Title 19, 2900 (m), 2900(q), 2910, 2940, 2945, 2955, and 2970(e)

FEMA Hazard Mitigation Assistance (HMA) Unified Guidance, 2013, Part IV. Eligibility Information, Section D.5 Hazard Mitigation Plan Requirement.

- Pre-Disaster Mitigation (PDM) Program and Flood Mitigation Assistance (FMA)
  - Hazard Mitigation Grant Program (HMGP)
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Updated 8/27/15



## Hazard Mitigation Planning Division Requirements to Adopt Local Hazard Mitigation Plans (LHMPs) to Be Compliant for AB 2140

To be compliant for AB 2140 approval, the local agency must:

- Adopt the current LHMP into the Safety Element of the General Plan. The local jurisdiction can either cross reference the LHMP and AB 2140 Eligibility resolution, or they can actually include the LHMP language specific to AB 2140 as part of their safety element. If the jurisdiction chooses to adopt “by reference,” they must state that in the AB 2140 Eligibility resolution.
- Submit proof of their adoption to the California Governor’s Office of Emergency Services (Cal OES), Mitigation Planning Division. This proof must be submitted as a certified hard copy of a Governing Body Resolution (Resolution of Adoption) with original signatures and certification stamp. Scanned documents will not be accepted.
- If the LHMP is a multiple-jurisdiction plan, each city or county jurisdiction involved must adopt the plan into the Safety Element of its own General Plan. It is not sufficient for only the lead plan to adopt because the annexes will not be covered. There are two exceptions as follows:
  - If a jurisdiction does not have a general plan (as in the case of a special district, small township, unincorporated area, etc.) and is an annex within a multiple-jurisdiction plan, the jurisdiction is covered by the lead jurisdiction’s general plan if the lead jurisdiction is AB 2140 compliant.
  - If a special district covers two or more counties, it may reach out to the county, if applicable, that is AB 2140 compliant in the event of a disaster declaration.
- Adopt the LHMP into the Safety Element of the General Plan after the LHMP has received final approval from FEMA. Adoptions before plan approval will not be accepted.
- Adoption into the Safety Element of the General Plan after the plan has expired will be not accepted, nor will it apply to the next LHMP.
- Renew the adoption into the Safety Element of the General Plan each time an LHMP is updated. The adoption expires when the LHMP expires, and must be renewed once the LHMP update has received final approval from FEMA.
- The date of the AB 2140 adoption resolution must be on or before the Legislature approves CDAA funding after a specific disaster.
- In determining AB 2140 compliance, the local hazard mitigation plan shall incorporate, at a minimum, all elements required under federal guidance, regulation, and statute for local hazard mitigation plans. (Section 65302.6(a))



## Assembly Bill 2140 (AB 2140) Fact Sheet

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### What is AB 2140?

Passed in October 2006, AB 2140 allows a local jurisdiction to adopt their current, FEMA-approved local hazard mitigation plan into the Safety Element of their General Plan. This adoption makes the jurisdiction eligible for consideration for part or all of its local costs on eligible Public Assistance to be provided by state share funding through the California Disaster Assistance Act (CDAA).

The CDAA allows the state to pay a portion of the non-federal share that would otherwise fall upon the local agency to pay for Public Assistance and Hazard Mitigation projects. The usual federal share amount is up to 75% of the project cost.

When the legislature approves a particular federally-declared disaster to fall under CDAA, the state will pay 75% of the non-federal share, leaving the other 25% of the non-federal share for the local agency to pay.

If the legislature passes a bill to allow the state to pay 100% of the non-federal share, AB 2140 legislation requires that it is on condition that the local agency has a current, FEMA-approved LHMP that has been adopted into the Safety Element of their General Plan (Safety Element).

The Safety Element of the General Plan states that “the safety element must identify hazards and hazard abatement provisions to guide local decisions related to zoning, subdivisions, and entitlement permits. The element should contain general hazard and risk reduction strategies and policies supporting hazard mitigation measures. Policies should address the identification of hazards and emergency response, as well as mitigation through avoidance of hazards by new projects and reduction of risk in developed areas.”

Adoption of the FEMA-approved Local Hazard Mitigation Plan helps to fulfill these General Plan Safety Element requirements.

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### Why is AB 2140 Eligibility Important?

It reduces or eliminates the burden of paying a portion of Public Assistance projects on local jurisdictions. In some cases, local jurisdictions do not have the means to pay the local share for Public Assistance projects, and are therefore unable to perform these important activities. This keeps communities at risk of death and injuries, damages to structures and infrastructure, economic hardships, and damage to the environment resulting from hazard events.

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*Continued*