



Winters City Council Meeting  
City Council Chambers  
318 First Street  
Tuesday, October 15, 2019  
6:30 p.m.  
**AGENDA**

*Members of the City Council*

*Bill Biasi, Mayor  
Wade Cowan, Mayor Pro-Tempore  
Harold Anderson  
Jesse Loren  
Pierre Neu*

*John W. Donlevy, Jr., City Manager  
Ethan Walsh, City Attorney  
Tracy Jensen, City Clerk*

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PLEASE NOTE – The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS

At this time, any member of the public may address the City Council on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Council. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

### CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the City Council, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, October 1, 2019 (pp. 5-12)
- B. Corrected Minutes of the Joint Land Use Planning Workshop of the Winters City Council and the Winters Planning Commission Held on August 21, 2019 (pp. 13-19)
- C. Final Acceptance and Notice of Completion of Public Improvements for Hotel Winters (pp. 20-22)
- D. Amendments to the Consultant Service Agreements with Bennett Engineering and Clear Path Land Evolvment for On-Call Map Checking Services (pp. 23-26)
- E. Disposal of Surplus Vehicle, 1964 White Mustang G326 Fire Truck (pp. 27)

PRESENTATIONS: None

### DISCUSSION ITEMS

- 1. Public Hearing and Introduction of Ordinance 2019-02, an Ordinance of the City Council of the City of Winters to Consider Proposed Amendments to Chapter 17.12, Planning Agency and Chapter 17.52, Land Use Regulations: Zoning Matrix and Adding Chapter 17.54, Vacation Rentals to Title 17 of the Municipal Code (Zoning Ordinance) (pp. 28-63)
- 2. Second Reading and Adoption of Ordinance 2019-03, an Ordinance of the City Council of the City of Winters Amending the Winters Municipal Code 15.20.040, Section 1001.8, Uniform Fire Code, Hydrants and Fire Department Connections Parking-Prohibited (pp. 64-68)
- 3. Introduction and First Reading of Ordinance 2019-04, an Ordinance of the City Council of the City of Winters, Amending the Winters Municipal Code to Add Chapter 13.20, Community Choice Aggregation Authorizing the Implementation of a Community Choice Aggregation Program; Adopt Resolution 2019-42, a Resolution of the City Council of the City of Winters Approving the

- Terms of Membership to the Valley Clean Energy Alliance Joint Powers Agency (pp. 69-106)
4. Resolution 2019-43, a Resolution of the City Council of the City of Winters, Requiring the City Council to Determine Whether to Initiate the Processing of Development Applications for Projects Outside of the City Boundaries and Requiring Annexation (pp. 107-111)

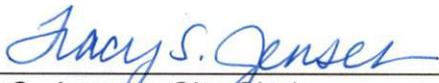
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## CITY MANAGER REPORT

### INFORMATION ONLY

#### ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the October 15, 2019 regular meeting of the Winters City Council was posted on the City of Winters website at [www.cityofwinters.org](http://www.cityofwinters.org) and Councilmembers were notified via e-mail of its' availability. A copy of the foregoing agenda was also posted on the outside public bulletin board at City Hall, 318 First Street on October 10, 2019, and made available to the public during normal business hours.



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Tracy S. Jensen, City Clerk

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*Staff recommendations are guidelines to the City Council. On any item, the Council may take action, which varies from that recommended by staff.*

*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.*

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Minutes of the Regular Meeting of the Winters City Council  
Held on October 1, 2019

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Mayor Bill Biasi called the meeting to order at 6:30 p.m.

Present: Council Members Harold Anderson, Jesse Loren, Pierre Neu,  
Mayor Pro Tem Wade Cowan, Mayor Bill Biasi  
Absent: None  
Staff: City Manager John W. Donlevy, Jr., City Attorney Ethan Walsh,  
Police Chief John Miller, Police Sergeant Kelly McCoy, Police  
Officer Alan Pinette, and City Clerk Tracy Jensen.

Marie Heilman led the Pledge of Allegiance.

Approval of Agenda: Discussion Item #4 was moved to Discussion Item #3, Discussion Item #3 was moved to Discussion Item #4, and Consent Item A was moved to Discussion Item #6. Motion by Council Member Neu, second by Council Member Loren to approve the agenda with the noted changes. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: None

COUNCIL/STAFF COMMENTS: Verbal updates were provided by Council.

PUBLIC COMMENTS: Tina Lowden, 320 Niemann, said she was very disappointed by the closure of the swimming pool.

Susan Hamilton, 27270 Co. Rd. 87, said she was concerned about the direction of growth and asked how that would benefit the multi-generational and new citizens of Winters. There is no benefit from doubling the size of the town. George Elrod, 112 Main St., wanted to state for the record that he appreciates the hard work and time put in by the City Council and the City Manager. His interactions with the Council and the City Manager are pleasant, welcome, and accepted. He thanked them for the hard work they do for the community.

Kate Laddish, 400 Morgan St., thanked City Manager Donlevy for speaking and following up for over an hour at the Senior Apartments yesterday regarding the resident's concerns about pedestrian access and safety across Grant Avenue from Morgan Street.

Heather Moore, 100 Main St., said she was concerned about the homeless population in and around the creek area, making it difficult to visit the area with her children. She also asked about the possibility of putting a salon in Hotel Winters to accommodate out-of-town guests coming into Winters.

Elly Yeatman, 209 Abbey, said there are a number of cars speeding up and down Abbey St. between Railroad Ave. and 4<sup>th</sup> St., frequently running stop signs.

#### CONSENT CALENDAR

- A. Minutes of the Joint Land Use Planning Workshop of the Winters City Council and the Winters Planning Commission Held on August 21, 2019 **(Moved to Discussion Item #6)**
- B. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, September 3, 2019
- C. Revised Bus Sharing Agreement with Hotel Winters for Use of City-Owned Buses
- D. Resolution 2019-37, a Resolution of the City Council of the City of Winters Calling for a General Municipal Election to be Held on March 3, 2020
- E. Member Recommendations for the Winters Senior Commission on Aging
- F. Resolution 2019-38, a Resolution of the City Council of the City of Winters Authorizing the City Manager to Execute on On-Call Transportation Engineering Services Contract with Fehr & Peers
- G. Street Closure Request and Amplified Sound Permit Application for Salmon Festival - November 2, 2019
- H. Green House Gas (GHG) Inventory MOU with Yolo County Regional Project
- I. Resolution 2019-39, a Resolution of the City Council of the City of Winters Approving a Subdivision Improvement Agreement with Homes By Towne of Winters Highlands (Stone's Throw), Phase 2 Subdivision

- J. Resolution 2019-41, a Resolution of the City Council of the City of Winters Accepting a Grant Deed for a Public Utility Easement Related to the Callahan Estates Phase 2 Project
- K. Request for Seed Money for Winters Community Dinner

City Manager Donlevy gave an overview and moved Consent Item A to Discussion Item #6 as requested by Council. Council Member Anderson recused himself from Consent Item C due to the ownership of property across the street from the property identified in the bus sharing agreement.

Motion by Council Member Loren, second by Mayor Pro Tem Cowan to approve Consent Item C. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: Council Member Anderson

Motion by Council Member Loren, second by Mayor Pro Tem Cowan to approve the remaining Consent Items B and D through K. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: None

PRESENTATIONS: Lindsey Hall, Yolo County DA's Victim Advocate for Seniors gave a brief presentation and said they work with Yolo Healthy Aging Alliance to provide resources to senior victims of crimes, which often times are of a financial nature. Ms. Hall said the 2019 Yolo County Senior Resource & Crime Prevention Fair is scheduled on Wednesday, October 16<sup>th</sup> from 9am-12pm at the University Covenant Church at 315 Mace Blvd. in Davis. Ms. Hall can be reached at [lindsey.hall@yolocounty.org](mailto:lindsey.hall@yolocounty.org) or 530-666-8396.

#### DISCUSSION ITEMS

1. Introduction and First Reading of Ordinance 2019-03, an Ordinance of the City Council of the City of Winters Amending the Winters Municipal Code 15.20.040, Section 1001.8, Uniform Fire Code, Hydrants and Fire Department Connections Parking-Prohibited

Sergeant Kelly McCoy gave an overview and said this ordinance clarifies the rules for parking near or in front of the 362 fire hydrants located throughout the City, which doesn't include the new hydrants that are not yet operational. Mayor Biasi asked if the Fire Department had approved the reduced clearance and Sgt. McCoy confirmed Chief Lopez had approved five feet on either side of the hydrant, down from seven feet.

Motion by Council Member Cowan, second by Council Member Neu to introduce and hold the first reading of Ordinance 2019-03. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: None

2. Lease Agreement Extension with Charley Wallace for Certain  
Property Located 201 First Street (Rodgers Building)

Economic Development and Housing Manager Dan Maguire gave an overview and said the attached lease would combine the two previous leases for the north and south portions of the building into one lease, extending the lease for 64 months past the end date of the second lease, or through the end of 2026. Dan said the tenant has invested substantially in tenant improvements to maximize the number of tenants and Council Member Loren said she appreciates the museum being housed there.

Motion by Council Member Loren, second by Council Member Neu to approve staff recommendation and authorize the execution of an extension of the lease agreement between the City and Charley Wallace for the property at 201 First Street. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: None

4. Resolution 2019-40, a Resolution of the City Council of the City of  
Winters Requesting Membership in the Valley Clean Energy  
Alliance Joint Powers Agency

Council Member Anderson recused himself due to ownership of PG&E stock.

City Manager Donlevy gave a brief overview and said this item originally came before Council in 2018 and again on September 3<sup>rd</sup>, 2019. Staff is presently requesting membership in the Valley Clean Energy Alliance Joint Powers Agency via Resolution 2019-40, with an ordinance and public hearing to follow on 10/15 and 11/5. The Valley Clean Energy board will then consider approving the City of Winters as a new associate member of the JPA. Mitch Sears from Valley Clean Energy and Supervisor and VCE Board Member Don Saylor were present at the meeting to respond to numerous questions from Council, staff, and members of the public.

Mayor Biasi said he is in favor of clean energy but wants to make it clear that the rates will not be higher than PG&E, and programs that PG&E offer for seniors and the disabled will also be offered through VCE. Mr. Sears said there will not be a fundamental change and that VCE will replace the generation portion of the bill and will offer the same rate structure as PG&E.

Peter Meyer, 21 E. Abbey St., said VCE has solicited the City but they don't describe what they're doing. Mr. Meyer wants to make sure there is plenty of community outreach throughout the process. Mr. Sears clarified by saying VCE pays PG&E for billing and delivery and CVE provides the generation, which will be stated on the bill. VCE is required to be transparent by law and the community advisory committee will include three representatives from Winters. Mr. Meyer reiterated his desire for plenty of community outreach and Mr. Sears replied by saying four notices will be sent out to each customer, 2 before the transition and 2 after.

Motion by Council Member Neu, second by Council Member Loren to adopt Resolution 2019-40, requesting membership in the Valley Clean Energy Alliance Joint Powers Agency and to provide direction to staff regarding the additional steps needed for Winters to join Valley Clean Energy Alliance. Motion carried with the following vote:

AYES: Council Members Loren, Neu, Mayor Pro Tem Cowan, Mayor Biasi  
NOES: None  
ABSENT: Council Member Anderson  
ABSTAIN: None

### 3. 2019 Planning Work Program

City Manager Donlevy gave a brief overview, followed by Contract Planner Heidi Tschudin, who provided a recap of the workshop held on August 21<sup>st</sup>. Council Member Loren said a lot of work has gone into this agenda item, but the title doesn't truly reflect what it is about. She requested that staff make future agendas clearer. She noted from the staff report that "one of the most important

takeaways was that the City needs to ensure a very robust process of engagement, information sharing, and community planning to bring residents into the process including participation in all facets of land use planning such as timing, phasing and location.” Council Member Loren asked about a timeline for a Climate Action Plan and asked how the Climate Commission would be formed.

Susan Hamilton, 27270 Co. Rd. 87, said three items were absent: where the water is coming from, the preservation of ag land, and air quality.

Kate Laddish, 400 Morgan St., thanked staff for the 8/21 workshop and preparing for today’s meeting. She requested details regarding a Climate Committee or Commission or a Climate Action Advisory Committee, whether it would be Council appointed, and to be clear about what type of body it will be as they function differently. Ms. Laddish said she looks forward to a robust public process.

Al Vallecillo, 210 Main St., thanked the City and Council for helping with the Carnita’s Festival and asked that the public comments from the 8/21 workshop be reincorporated back into the minutes as part of the public record.

Mayor Pro Tem Cowan said Resolution 2019-35 was adopted for the short term at the August 20<sup>th</sup> City Council meeting, requiring the City Council to determine whether to initiate processing of development applications for projects outside of the urban limit line set forth in the City’s General Plan. This will be brought back to Council for further revisions at a future meeting.

Council Member Neu asked about Contract Planner Heidi Tschudin’s involvement in the plan. Ms. Tschudin clarified she has been an independent land use planner for 30 years, a planner for 40 years, with 20 years spent in the public sector. Ms. Tschudin also confirmed she is currently under contract with the City of Winters.

Mayor Biasi said the work program looked good and asked staff to provide outreach to all levels of the community. City Manager Donlevy said the table will be expanded and will be brought back to Council at the November 5<sup>th</sup> City Council meeting.

#### 5. Rotary Spooktacular 10k/5k Fun Run – Special Event Application

City Manager Donlevy gave an overview and said Duane Davis, a 14-month resident, brought this idea to the Rotary Club of Winters, who is sponsoring this scholarship run. He then provided a power point presentation and said based on the Rotary’s college promise, scholarship recipients will receive two years of community college education at no cost to them. City Manager Donlevy said the event will begin at 8am, confirmed no traffic lanes would be closed as

participants will mostly use bike lanes, and the lights will be flashing at the affected intersections.

Motion by Mayor Pro Tem Cowan, second by Council Member Loren to approve the Special Event application submitted by the Rotary Club of Winters for the 2019 Inaugural Spooktacular 10k/5k/Fun Run on Sunday, October 27, 2019. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: None

6. Minutes of the Joint Land Use Planning Workshop of the Winters City Council and the Winters Planning Commission Held on August 21, 2019 **(Moved from Consent Item A)**

Council Member Loren said she received letters from the public requesting clarification regarding the absence of public comments from the draft minutes of the 8/21/19 workshop.

City Manager Donlevy said staff does not take verbatim minutes but action minutes. Mayor Pro Tem Cowan said minutes don't need to be word for word but should be a quick review or a general idea of what was talked about. City Attorney Walsh said ultimately people can provide clarifying information as a supplement, but they are not part of the minutes, as minutes offer only a representation of the meeting. Council may or may not choose to make a motion to make amendments to the previous draft of the minutes.

Kate Laddish, 400 Morgan St., said it is important the public comments are included in the written record, with a written version submitted for large public meetings. If staff is to rely on audio/visual, make sure all public meetings occur in a place with good audio quality and make those recordings available.

Motion by Council Member Loren, second by Council Member Neu to bring back the draft minutes from the 8/21/19 workshop to the 10/15/19 agenda as a consent item and include the public comments that were previously omitted. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Cowan,  
Mayor Biasi  
NOES: None  
ABSENT: None  
ABSTAIN: None

Marlene Bell requested the names be announced of those who were selected as board members of the Winters Commission on Aging. These folks will play a very important role and we should celebrate them and put them to work.

CITY MANAGER REPORT: The City, County and Cal Trans received a \$250k grant from SACOG for Complete Streets. They are now collaborating on an overall work program to prioritize to try and start positioning for additional grant funds for the overpass and pedestrian safety. Supervisor Saylor put the grant application together and each entity (City Engineer Alan Mitchell, Deputy Public Works from Yolo County and the Cal Trans area coordinator) will come back with a task list. City Manager Donlevy and Public Works Superintendent Eric Lucero will attend a Yolo County/Caltrans District 3 Annual Information Sharing and Coordination Forum on 10/4/19.

A meeting was held with a wonderful group of citizens from the Senior Apartments on Morgan Street, who voiced some sincere concerns. Staff would be more than happy to give an update on any topic, with plans to report back on five items.

Mayor Pro Tem Cowan asked staff to schedule a meeting with the developer regarding those affected by the floods earlier this year as the rainy season is upon us.

ADJOURNMENT: Mayor Biasi adjourned the meeting at 9:15 p.m.

\_\_\_\_\_  
Bill Biasi, MAYOR

ATTEST:

\_\_\_\_\_  
Tracy Jensen, City Clerk



**CORRECTED** Minutes of the Joint Land Use Planning Workshop  
of the Winters City Council and the Winters Planning Commission  
Held on August 21, 2019 at the Winters Public Safety Facility

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Mayor Bill Biasi called to order the Joint Land Use Planning Workshop at 5:05 p.m.

**Present:** Council Members Harold Anderson, Jesse Loren, Pierre Neu, Mayor Pro Tem Wade Cowan, Mayor Bill Biasi, Planning Commissioners Dave Adams, Ramon Altamirano, Lisa Baker, Greg Contreras, and Planning Commission Chairman Paul Myer  
**Absent:** Planning Commissioners Pat Riley and Daniel Schrupp  
**Staff:** City Manager John W. Donlevy Jr., City Attorney Ethan Walsh, Contract Planners Heidi Tschudin and Dave Dowswell, Economic Development and Housing Manager Dan Maguire, Environmental Services Manager Carol Scianna, Human Resources Manager Crystal Zaragoza, Management Analysts Dago Fierros and Kristine DeGuerre, and City Clerk Tracy Jensen.

Woody Fridae led the Pledge of Allegiance.

Approval of Agenda: Motion by Mayor Pro Tem Cowan, second by Council Member Neu to approve the agenda. Motion carried unanimously with the following vote:

**AYES:** Council Members Harold Anderson, Jesse Loren, Pierre Neu, Mayor Pro Tem Wade Cowan, Mayor Bill Biasi, Planning Commissioners Dave Adams, Ramon Altamirano, Lisa Baker, Greg Contreras, and Chairman Paul Myer  
**NOES:** None  
**ABSENT:** Planning Commissioners Pat Riley and Daniel Schrupp  
**ABSTAIN:** None

INTRODUCTION: Mayor Biasi reviewed how the basic structure of the meeting would be conducted, including the opportunity for the public to provide their comments following the presentation.

PRESENTATION: Contract Planner Heidi Tschudin gave an overview of the items included within the presentation as follows:

- Workshop Goals
- Status of the Northeast Area
- Overview of Land Development Process
- Status of General Plan
- Overview of LAFCO and Annexation Process
- General Plan Implementation
- Planning Trends and New Requirements.

Ms. Tschudin said the goals of this workshop were to clarify the land use application process, achieve a common understanding of key planning concepts, and develop a strategy for General Plan revisions.

Mayor Biasi thanked Ms. Tschudin for the informative presentation that provided the City Council and Planning Commission with a review of the process, and also gave the community the opportunity to see the whole process that the City has to go through before any decisions are made.

Members of the City Council and Planning Commission were then given the opportunity to ask questions and discuss the information that had been provided by Ms. Tschudin.

PUBLIC COMMENTS:

Susan Hamilton, 27270 Co. Rd. 87, said the land being discussed is not just land, it's ag land we're talking about developing. There are not enough jobs in town to support the kind of development that is being discussed, meaning people will have to drive to and from work. We need to look at air and water as finite resources and we need a place to grow our food.

Mike McCoy, 26738 Co. Rd. 34, said between one third and one half of the citizens present were not residents at the time of the 1992 General Plan. He would like to see a vigorous series of forums to see if the vision in 1992 is still the vision in 2019.

Woody Fridae, 112 Liwai Village Ct., thanked the Mayor and those who called for this workshop to give residents the opportunity to get the straight story and learn about the process. He said it was a good sign and he was encouraged by the showing of younger people at this meeting. Winters is one of the few towns in

Central California that has been able to maintain their historic district as its' commercial district. He credited City Manager Donlevy and past Councils for focusing all of their resources and attention on the downtown revitalization project, which saw a new library, two bridges, new parks, and the Public Safety Facility. And it was all done on less than 1% average residential growth. Woody requested that the City maintain the downtown core and keep it vital, and do it in a way that is slow, 1% or less. He wants to keep small town feel and sense of community.

Peter Hunter, 28472 Co. Rd. 87D, said many of those present tonight took an active role in the 1992 General Plan, which had a planning horizon of 20 years. Some of the goals and policies of the General Plan have not been achieved. The parking and traffic congestion missed the mark even 40% below the target population of 12,000. The goals and policies of the General Plan are twenty-seven years old. We need to re-evaluate based on where we are today and the only option is to put some sort of moratorium on development.

Chuck Pearce, 4582 Campos Ln., said based on our current infrastructure, how can we sustain the growth that is being proposed without substantial infrastructure improvements. It needs to be put to voter approval, not just left up to the City to decide. We really need to look at our infrastructure.

Cristina Cogdell, 206 Main St., offered four opinions: the presentation tonight was biased, with many points geared toward development and annexation and requested that any future presentations be more neutral; the idea of developers paying on City debt or finance a new general plan sounds like bribery; pursue Climate Council and other sustainability issues before seeing any huge development; would like to see a public referendum or public vote for this issue and not have it decided by the City Council.

Tim Caro said he was concerned with the amount of greenhouse gas emissions brought about by vehicle transportation. The building of a lot of homes is being proposed with not many jobs, which will increase greenhouse gases.

Jeff Tenpas, 24 E. Main, said a developer is interested in building 7,500 new units, which would double the size of the town and we're asking the developer to pay for it. The City currently has the services we need and doesn't need to grow any bigger. Don't push for growth and don't rush to develop land that is in a flood zone.

David Springer, 200 Madrone Ct., wants to include agriculture preservation as part of the General Plan Update. He also asked what goes into the decision for a mitigated negative declaration. He advised that there are new State laws that affect the content of the general plan and there are time deadlines associated with them.

Denise Cottrell, 210 Main Street, asked if the developer who submitted a check had been billed for any work yet. Regarding the General Plan debt, City Manager Donlevy confirmed the City has a fund accounting system. Within this system, an inner-fund loan was established based on the combination of planning and a massive lawsuit. A monitoring fee system was established and the City charges fees to pay back the loan. This loan is on the City's balance sheet and we have to pay it back. It is a legitimate loan and goes against the City's credit rating. Ms. Cottrell proposed placing a moratorium to not accept any letters of intent from anyone until citizens have a chance to work on the General Plan.

Sarah Shirley, 415 Baker, wants the community to stay safe and close-knit. Addressing this from an agricultural perspective, if we grow exponentially, we'll break off all of our branches. Slow and sustained growth is needed.

Will Meikle, 215 Grant Ave., doesn't want developers to destroy what we have in Winters. It is unique and we don't have a lot of industry here. If new homes are built, people will come in and destroy it, slowly but surely. They came here for a quiet life, a village atmosphere, quality of life. Continued growth will discontinue the citizen's way of life. Respect the wishes of the people – slow down and leave it the way it is.

Carla Wren, 424 Russell St., sees the town as something very special and that people come here for its authentic community feel. We need to think about the consequences of urban sprawl. The downtown businesses are fighting to stay competitive. Winters has a strong business community and local businesses want to have a local connection.

Kate Laddish, 400 Morgan, said the Climate Action Plan update went before Council on April 16<sup>th</sup> that included the formation of a Climate Commission. She requested Council to direct staff to come up with a time line to come before council to discuss what the Climate Commission's mission will be. Ms. Laddish is also concerned about the jobs/housing balance and greenhouse gas production. She requested Council to direct staff to study what houses are needed for people who live here and what jobs are needed for people to work here. If given the opportunity to discuss what it is that makes us love this town, let's take the steps to preserve it.

Al Vallecillo, 210 Main St., thanked Contract Planner Tschudin for preparing and bringing forth a one-page document as a result of his request at last night's City Council meeting to be included in tonight's presentation. The main issues that seem to be driving this development push in the north area are flood issues. He requested the formation of a Flood Solutions Commission to research it without indenturing the City to one landowner. Harness the area's volunteerism. We have something very unique in Winters. Give the community a chance to participate as we move forward.

Recebba Fridae, 112 Liwai Village Ct., asked when the schools will get involved.

Lynn Secrist has traveled to over 100 countries and she flies into large cities, but she doesn't stay there. She seeks out the country and its small towns, which are so important. Keep it small.

Claudia Horvath submitted her opinion in writing regarding current and future development in the City of Winters. Members of the Council and Planning Commission were provided with a copy for their review.

Following public comments, Mayor Biasi turned it back over to Contract Planner Tschudin, who responded to two technical questions. A negative declaration is a smaller, less detailed environmental impact document that is required to be written when there are no environmental impacts when compared to impact thresholds or if there are environmental impacts, but there are mitigations or regulations in place that could mitigate the impact. When this is not the case, an Environmental Impact Report (EIR) is needed. Also, there is no date for when a General Plan needs to be updated except for the Housing Element.

Based on questions from the audience, Ms. Tschudin responded as follows:

Education is a challenge for a planner. Schools make independent decisions and are not required under state law to follow general plans. Mayor Biasi explained the 2 X 2 committee meetings that are held bi-monthly between the City and the School District, which include two City Council members and two School Board members, as well as the City Manager and the Superintendent of Schools. The City has talked with the school district about development on an on-going basis and they have a plan for dealing with growth.

Ms. Tschudin said a section under the State planning and zoning law allows a jurisdiction to place a moratorium on applications for a period of 45 days, an additional 10 months and 15 days, and then an additional year totaling approximately two years as confirmed by City Attorney Walsh, who added that a moratorium may have unintended consequences as this would stop all permits. If talking about a moratorium to do a General Plan update, it would stop everything. You could do a moratorium for a specific plan area, but as part of that, you have to be moving forward with the planning process to address the concern that gave rise to the moratorium.

Planning Commissioner Contreras asked about the flood zone and whether the cost associated could be spread out between the developer and the property owner. Ms. Tschudin said the City's ability to charge fees for infrastructure is limited by Nexis, which requires someone to pay or contribute for something for their fair share or if they have an impact on it. The ability to spread it over the entire City is not possible, but the ability to attach it to a building permit for

someone in that area is available to the City. With a small amount of potential property owners, the fee would be high.

Ms. Tschudin said the City can establish policies and a process to meter or phase out growth and accomplishing this by putting a cap on growth is one possibility.

Ms. Tschudin explained the difference between the Flood Overlay Zone and the Storm Water Compliance Plan. Storm Water Compliance is whatever land use you have on your property, if you are prohibiting the natural absorption of water, then run off is created and must be channeled into a retention pond or some type of facility, treat it and send it through the system. Flood is different and deals with how to re-direct or stop water so it no longer impacts the area so that you could develop on it.

In response to questions regarding groundwater recharge, City Manager Donlevy said the City's storm water plans are continuously being updated. Stormwater quality is the water going into the storm drain and water going across the land is called drainage. Please refer to the Grant Avenue Design Guidelines on the City's website, which addresses low impact develop. The PG&E project is a perfect example. Except for 100-year event, there will be no water running off that site.

An audience member asked if Council is allowed to express interest or disinterest in a project. Ms. Tschudin said regarding private projects that involve legislative approval, they can decide not to hear it. But with other types like use permits or subdivision splits, they cannot choose to not process it. They can accept or deny it, but they can't choose not to hear it.

An audience member asked who could author a resolution prohibiting future development. City Attorney Walsh said anyone could author it, but if Council initiated it, they wouldn't have to go through the CEQA process. Similar to the State level, there are a lot of initiatives on the ballot each year. That same process would apply on the local level as well.

Council Member Cowan clarified the possibility of adding a resolution to address specific areas that were not included in Resolution 2019-35, which was adopted at the August 20<sup>th</sup> City Council meeting. Ms. Tschudin said at any time Council could give direction and have the resolution brought back before Council.

Contract Planner Tschudin then provided the following City Council direction:

- a. Status of Northeast Area
  - Direct staff to maintain the informational website with current information regarding the project and application status.

- Direct staff to request that prior to submittal of an application, the property owner representative submit a Letter of Intent that will be scheduled for consideration by the City Council pursuant to the requirements of Resolution 2019-35.
  - Direct staff to bring back Resolution 2019-35 for amendment to include the City's Sphere of Influence (SOI) areas.
- b. Land Development Application Process
- Affirm the described land development application process for continued use with new applications.
  - Direct staff to post the steps for a typical land development application process online as an informational tool.
  - Direct staff to provide monthly updates to Council on activity related to land development projects.
- c. Status of General Plan
- Direct staff to undertake an adequacy review of General Plan to identify required and other strongly recommended changes, as well as preliminary budget and funding information for making such changes.
  - Direct staff to develop workplan for update of the Housing Element with preliminary budget and funding information.
  - Direct staff to investigate mechanisms and a timeline to pay off the 1992 General Plan interfund loan.
- d. Status of Annexation
- Direct staff to undertake an adequacy review of the location and extent of the General Plan planning area.
- e. General Plan Implementation
- Direct staff to identify funding and prepare a workplan plan for adoption of a Climate Action Plan/Sustainability Strategy.
  - Direct staff to report on the status and adequacy of the City's infrastructure master plans, including the status of the Flood Overlay Zone (FOZ), and the major projects financing fee program.

Mayor Biasi thanked everyone for coming and asking questions and expressing their opinions, thanked staff for their hard work, and thanked the Council and Planning Commission for their participation. Mayor Biasi then adjourned the joint workshop at approximately 8:13 p.m.

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Bill Biasi, MAYOR

ATTEST:

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Tracy S. Jensen, City Clerk



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Council Members  
**DATE:** October 15, 2019  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Alan Mitchell, City Engineer  
**SUBJECT:** Final Acceptance of Public Improvements for Hotel Winters

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**RECOMMENDATION:** Staff recommends that the City Council accept the public improvements as complete and direct the City Clerk to file a Notice of Completion.

**BACKGROUND:** The Hotel Winters project consists of 73 rooms with a retail space, a restaurant, and roof-top patio, located at the southwest corner of Railroad and Abbey. On December 16, 2015, the Planning Commission approved Parcel Map No. 5080, creating two (2) Parcels. The new Hotel was constructed on Parcel 2.

**DISCUSSION:** The public improvements included construction of curb, gutter, sidewalk, and pavement, for portions of Abbey Street, Railroad Avenue, Newt's Expressway, and water, sewer and storm drain systems to serve the Hotel. Improvements for the adjacent parking lot and Newt's Expressway were constructed by the City.

The improvements have been constructed in accordance with the approved improvement plans prepared by Laugenour and Meikle. Staff recommends the City Council accept the improvements and direct the City Clerk to file a Notice of Completion.

**FISCAL IMPACT:** No funding impacts are associated with this request.

Attachment: Notice of Completion

Recording Requested by

CITY OF WINTERS

When Recorded Mail To:

Tracy S. Jensen, City Clerk  
City of Winters  
318 First Street  
Winters, CA 95694

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## NOTICE OF COMPLETION

### NOTICE IS HEREBY GIVEN THAT:

The undersigned is the owner of the interest or estate in the hereinafter described real property, the nature of which estate or interest is fee simple.

The full name and address of the owner and of any and all co-owners is the City of Winters, 318 First Street, Winters, CA 95694.

The nature of the title of the undersigned is City Manager.

The full names and complete addresses of all persons, if any, who hold title with the undersigned as joint Co-owner's Name(s) and Complete Address: None

The names of the predecessors in interest of the undersigned, if the property was transferred subsequent to the commencement of the work of improvement herein referred to, include, but are not limited to the following individuals: None

A work of improvement on the property described below was completed on October 5, 2019.

The name of the original contractor for the work of improvement was: Hotel Winters, LLC, 111 Richards Blvd, Davis, CA 95616.

The kind of work done or finished was utility services and frontage improvements for the new Hotel Winters, along Abbey Street, Railroad Avenue, and Newt's Expressway.

The property on which the work of improvement was completed is within the City of Winters, County of Yolo, State of California, and is located at 12 Abbey Street, Winters, CA.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
(Owner's Signature) City Manager, City of Winters

John W. Donlevy, Jr.  
(Owner's Typed or Printed Name)

### VERIFICATION

**I, the undersigned, say:**

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

\_\_\_\_\_, Winters, CA  
(Date) (Place)

\_\_\_\_\_  
(Signature) Tracy S. Jensen, City Clerk

This form is the notice of completion that a property owner may record to limit the time in which mechanics' liens may be recorded against a construction project (refer to Civil Code Section 3093.) For this purpose, an owner is the person who causes a building, improvement, or structure to be completed, modified, or fixed, whether the interest or estate is in fee, as a vendee under contract or purchase, as lessee, or other interest or estate less than fee. If the interest is held by two or more persons as joint tenants or tenants in common, any one or more of the co-tenants may be deemed to be the owner. (Civil Code Section 3092(g), 3093.) **This form is for use with a private work of improvement only, and is not intended for public sector application.**

If the owner records the notice within the applicable time period, the original contractor has sixty (60) days from the day the notice is recorded to record a claim of lien against the project (Civil Code Section 3115(b)); and all other persons who furnished labor, services, equipment, or materials must record their liens within thirty (30) days after the notice of completion is recorded (Civil Code Section 31.) Otherwise, all persons who furnished labor, services, equipment, or materials have ninety (90) days after completion of the work of improvement in which to record their liens (Civil Code Sections 3115, 3116.)

The owner must record the notice in the office of the County Recorder of the county where the site is located within ten (10) days after the work of improvement is completed (Civil Code Section 3093.) This applies equally to the project which is completed in phases. A notice of completion must be filed within ten (10) days after the completion of each phase of the project to shield the owner properly (Civil Code Section 3117.)



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Council Members  
**DATE:** October 15, 2019  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Alan Mitchell, City Engineer  
**SUBJECT:** **Approving and Authorizing the City Manager to Execute an Amendment to the Consultant Services Agreements between the City of Winters and Bennett Engineering and the City of Winters and Clear Path Land Evolvment for On-Call Map Checking Services**

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**RECOMMENDATION:** Staff recommends that the City Council approve and authorize the City Manager to execute an amendment to the consultant services agreements with Bennett Engineering and Clear Path for on-call map checking services for future private land development.

**BACKGROUND:** On August 21, 2017, the City Engineer issued a Request for Qualifications (RFQ) to qualified Land Surveyors located in Northern California, for on-call map checking services, with the intent to enter into a two year on-call contract with two firms or individuals for map-checking services for private development. The qualifications were reviewed by staff and the City Engineer, using the following criteria: Staff/Firm Qualifications, Pertinent Experience, Fee Schedule, and Location of Firm. Based on the review, the panel concurred that Bennett and Clear Path were the most qualified firms.

On October 3, 2017, the City Council approved adoption of Resolution 2017-45, to authorize the City Manager to execute on-call contracts with both Bennett and Clear Path for a period of two years from execution, with the ability for extension of the contracts for one additional two-year period. Commercial and residential development continues to be active in Winters, and developers and land owners have been filing maps for division of land. Therefore, it is imperative that the City have a licensed Land Surveyor (LS) under contract to review the maps. Per the Map Act, the City Engineer is not permitted to provide such a service.

Bennett and Clear Path have alternated projects over the past two years and have provided a timely and cost-effective service for projects such as Stone's Throw FM, Callahan FM, Creekside TM, Burdick LLA, Cottages at Carter Ranch FM, Blue Mountain Terrace PM, Christopher Mariani PM, Downtown Hotel PM, and others. The City Engineer recommends a two-year extension to their services.

**ALTERNATIVES:** No alternatives recommended.

**FISCAL IMPACT:** No impact to the General Fund. The costs associated with the contracts will be funded with project-specific funds from plan check fees adopted by the City.

**ATTACHMENTS:** Consultant Services Amendments

**AMENDMENT NO. 1  
TO AGREEMENT 030-17 BETWEEN THE CITY OF WINTERS AND  
BENNETT ENGINEERING FOR ON-CALL MAP CHECKING SERVICES**

This Amendment modifies the AGREEMENT, dated October 3, 2017 for On-Call Map Checking Services. This Amendment ("AMENDMENT") is made and entered into this 15<sup>th</sup> day of October, 2019 by and between the City of Winters, a municipal corporation of the State of California, herein after referred to as "CITY" and Bennett Engineering, herein after referred to as "CONSULTANT".

The CITY desires to extend the on-call contract for a period of two years, as provided in the AGREEMENT approved by the City Council.

**AMENDMENTS**

1. SERVICES.

Section shall be revised to read as follows:

Subject to the terms and conditions set forth in this AMENDMENT, CONSULTANT shall provide to the City with On-Call Map Checking Services for various City projects and private development projects. The AGREEMENT includes typical Tasks, which may be required. CONSULTANT shall provide said Services for a period of two-years from the date of execution of this AMENDMENT. The AGREEMENT will expire on October 15, 2021.

CONSULTANT shall provide a Scope of Work and Fee Proposal on a project-by-project basis, for review by the CITY. The negotiated Scope and Fee will be the basis for Services for each specific project, and a Work Order will be issued. CONSULTANT shall provide said services at the time, place, and in the manner specified by the City Engineer.

2. PAYMENT.

Section shall be revised to read as follows:

The CITY shall pay CONSULTANT for the actual time and materials expended, in accordance with the negotiated Scope and Fee under each Work Order, for each specific project. Services shall be rendered pursuant to the AGREEMENT and the Work Order.

In Witness whereof, the parties hereto have caused this AMENDMENT to be duly executed as of the day and year first above written.

CITY OF WINTERS  
a Municipal corporation of the  
State of California

CONSULTANT

By: \_\_\_\_\_  
John Donlevy, City Manager

By: \_\_\_\_\_  
Leo Rubio, President  
Bennett Engineering

**AMENDMENT NO. 1  
TO AGREEMENT 031-17 BETWEEN THE CITY OF WINTERS AND  
CLEAR PATH LAND EVOLVEMENT FOR ON-CALL MAP CHECKING SERVICES**

This Amendment modifies the AGREEMENT, dated October 3, 2017 for On-Call Map Checking Services. This Amendment ("AMENDMENT") is made and entered into this 15<sup>th</sup> day of October, 2019 by and between the City of Winters, a municipal corporation of the State of California, herein after referred to as "CITY" and Clear Path Land Evolvement, herein after referred to as "CONSULTANT".

The CITY desires to extend the on-call contract for a period of two years, as provided in the AGREEMENT approved by the City Council.

**AMENDMENTS**

1. SERVICES.

Section shall be revised to read as follows:

Subject to the terms and conditions set forth in this AMENDMENT, CONSULTANT shall provide to the City with On-Call Map Checking Services for various City projects and private development projects. The AGREEMENT includes typical Tasks, which may be required. CONSULTANT shall provide said Services for a period of two-years from the date of execution of this AMENDMENT. The AGREEMENT will expire on October 15, 2021.

CONSULTANT shall provide a Scope of Work and Fee Proposal on a project-by-project basis, for review by the CITY. The negotiated Scope and Fee will be the basis for Services for each specific project, and a Work Order will be issued. CONSULTANT shall provide said services at the time, place, and in the manner specified by the City Engineer.

2. PAYMENT.

Section shall be revised to read as follows:

The CITY shall pay CONSULTANT for the actual time and materials expended, in accordance with the negotiated Scope and Fee under each Work Order, for each specific project. Services shall be rendered pursuant to the AGREEMENT and the Work Order.

In Witness whereof, the parties hereto have caused this AMENDMENT to be duly executed as of the day and year first above written.

CITY OF WINTERS  
a Municipal corporation of the  
State of California

CONSULTANT

By: \_\_\_\_\_  
John Donlevy, City Manager

By: \_\_\_\_\_  
Christine Johnson, President  
Clear Path Land Evolvement



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Councilmembers  
DATE: October 15<sup>th</sup>, 2019  
THROUGH: John W. Donlevy, Jr., City Manager  
FROM: Brad L. Lopez, Fire Chief  
SUBJECT: Disposal of Surplus Vehicle, 1964 White Mustang G326

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**RECOMMENDATION:**

The Fire Chief recommends authorization for the disposal of a 1964 White Mustang fire truck by way of North Bay Auto Auction.

**BACKGROUND:**

The 1964 White Mustang has served the Winters Fire Department and Fire Protection District for nearly 40 years. It is the last apparatus that was built by the Winters Fire staff under Chief Bruhn at the time. This apparatus was unique and required very skilled operators to learn to drive the vehicle that has a manual transmission and two-stick shifts. The fire truck was removed from active service in 2008 due to its age, mileage, necessary training to drive a two-stick manual transmission and maintenance. Since 2008 it has been stored and remained a historical piece of the Winters Fire Department. The Fire Department also maintains two additional antique pieces of fire trucks which include a 1914 American La France and a 1940 Buffalo Pathfinder, both historical pieces of our department and community. It is time to look at downsizing our antique fleet to a more manageable fleet size and provide access to needed storage in the shop.

**FISCAL IMPACT:**

None

Respectfully,  
Brad L. Lopez, Fire Chief



**CITY COUNCIL  
STAFF REPORT**

**TO:** Mayor and Councilmembers  
**DATE:** October 15, 2019  
**FROM:** David Dowswell, Contract Planner   
**THROUGH:** John Donlevy, Jr., City Manager  
**SUBJECT:** Public Hearing and Consideration of proposed amendments to Chapter 17.12, Planning Agency and Chapter 17.52, Land Use Regulations: Zoning Matrix and adding Chapter 17.54, Vacation Rentals to Title 17 of the Municipal Code (Zoning Ordinance).

---

**RECOMMENDATION:** Staff recommends the City Council take the following actions:

- 1) Find the proposed amendments to the Municipal Code Categorical Exempt from CEQA, Class 1 Section 15301 (Existing Facilities) and Class 4 Section 15304 (Minor Alterations to Land); and
- 2) Receive the staff report, conduct the public hearing, and introduce Ordinance 2019-02 amending Chapter 17.12, Planning Agency and Chapter 17.52, Land Use Regulations: Zoning Matrix and adding Chapter 17.54, Vacation Rentals to Title 17 of the Municipal Code (Zoning Ordinance).

**BACKGROUND:** The city of Winters does not regulate vacation rentals. There are a number of vacation rental companies such as, Airbnb, Homeaway, HomeToGo and Vacation Rentals By Owners (VRBO). These internet based companies allow people to rent out rooms or their entire house for a short time – essentially using the property like a hotel. Presently there are 14 listings on Airbnb's site for rent in Winters, most are for full houses.

On January 22, March 26, April 23, and May 28, 2019 the planning commission held study sessions where the proposed vacation rental ordinance was discussed. At the April meeting Sandy Vickrey spoke regarding the proposed ordinance and expressed some

concern about certain elements in the ordinance. Also, Jose Banuelos spoke at the meeting about having to live next door to an existing vacation rental and often being disturbed by the guests.

Staff met with Sandy Vickrey on May 2, May 22, 2019 to discuss the proposed ordinance.

At the May 28, 2019 the planning commission meeting Benny Dippel and Abby Vargas commented on the draft ordinance. The commission encouraged the speakers to forward their comments to staff and if possible, meet with staff directly. At the conclusion of hearing the planning commission continued the public hearing to June 25, 2019.

On June 12, 2019 staff met with Abby Vargas to discuss the proposed ordinance. On June 13, 2019 staff also met with Benny Dippel (by phone) and Sandy Vickrey to discuss the proposed ordinance. Based on their comments a number of additional changes were suggested to the proposed ordinance.

On June 25, 2019 the planning commission, at the continued public hearing, considered the proposed vacation rental ordinance. At the hearing Abby Vargas requested eliminating the restriction (Section 17.54.040F4) prohibiting using accessory dwelling units (ADU) as a vacation rental. At the conclusion of the hearing the commission voted 5 to 1, with commissioner Adams recusing himself due to a possible conflict and commissioner Contreras dissenting, to recommend the council adopt the proposed ordinance with the suggested amendments. Commissioner Contreras voted against the proposed ordinance because it includes language prohibiting the use of ADUs as vacation rentals.

On August 6, 2019 the city council considered the proposed ordinance (Ordinance 2019-02) amending Chapter 17.12, Planning Agency and adding Chapter 17.54, Vacation Rentals to Title 17 (Zoning Ordinance) of the Municipal Code. During the hearing the council had several questions regarding the proposed ordinance, specifically the prohibition of using an Accessory Dwelling Unit (ADU) as a vacation rental, the meaning of the language requiring all designated bedrooms "meet current building and fire codes", and the application process and fee for hosted vacation rentals. At the conclusion of the discussion the city council continued the hearing until August 20 and directed staff investigate how other cities handle these issues.

On August 20, 2019 the city council again considered Ordinance 2019-02 regulating vacation rentals. At the hearing the council and citizens voiced concern about the proposed ordinance, specifically the application process and fees, prohibition of using accessory dwelling units (ADU) as vacation rentals and the language requiring all vacation rentals "meet current building and fire codes". At the conclusion of the hearing the council referred the ordinance back to the planning commission for further review, focusing on those issues discussed at the two council meetings.

On September 24, 2019 the planning commission meeting the commission discussed those items the council directed them to study and Sandy Vickrey and Benjamin Dippel spoke. At the conclusion of the public hearing the commission voted 4 to 1 to recommend the city council adopt the proposed ordinance deleting the restriction prohibiting the use of ADUs (Section 17.54.040C.4) as vacation rentals, adding the new wording (Definitions and Sections 17.54.030A.5 and 17.54.040.I) clarifying what will be inspected by the city as part of vacation rental permit process and clarifying that the commission (Section 17.54.040 B.1) may approve increasing the maximum number of guests who can stay in a hosted or non-hosted vacation rental with a use permit.

## **ANALYSIS:**

### **Application Process**

The proposed ordinance includes amending Table 2 in Section 17.52.020 (Chapter 17.52) Land Use/Zoning Matrix of the Zoning Ordinance to include hosted and non-hosted vacation rentals as conditional uses permitted in R-R, R-1, R-2 and R-3 residential zones. Two footnotes (#6 and #7) have been added to the matrix explaining the difference in the application processes.

The proposed ordinance requires all hosted vacation rentals obtain an administrative (vacation rental) permit from the zoning administrator. The process for issuing a hosted vacation rental a permit is similar to the process for issuing a home occupation permit. For a home occupation permit the City notices the contiguous property owners; there is no public hearing. For a hosted vacation rental administrative permit, the City would notice property owners within 100 feet and prepare a staff report with conditions; there is no public hearing. Roughly 5 or 6 more property owners would be noticed for an administrative permit than for a home occupation permit. The fee for a home occupation is \$243. The fee for an administrative permit would be higher due to the increased noticing and having to prepare a staff report with conditions. Should the council support obtaining an administrative permit from the zoning administrator for hosted vacation rentals the City would need to have its fee consultant determine the fee.

As a second alternative, the council could decide not to create a new permitting process for hosted vacation rentals, but instead amend the home occupation regulations in Chapter 17.94 of the Zoning Ordinance to allow hosted vacation rentals as a home occupation. Should the council decide to amend the home occupation regulations to allow hosted vacation rentals as a home occupation no new fee would be needed.

As a third alternative, the council could decide not to require hosted vacation rentals to obtain a vacation rental permit or a home occupation permit from the zoning administrator. The council could instead simply require the owner of a hosted vacation rental to register their property with the City and pay the transient occupancy tax like is done in the cities of Cloverdale and Nevada City.

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING CHAPTER 17.12 (PLANNING AGENCY) AND CHAPTER 17.54 (VACATION  
RENTALS 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 Vacation Rentals.

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 17.12 of the Municipal Code is hereby amended to read as follows:

**Chapter 17.12**  
**PLANNING AGENCY**

**17.12.030 Powers and duties of the zoning administrator**

D. Projects Subject to Zoning Administrator Review

1. Minor Modifications and Extensions of Time of Planned Developments
  - a. The zoning administrator may approve minor modifications of the detailed development plans or detailed development standards as well as time extensions in planned development (PD) overlay zones
  - b. Findings

Such minor modifications may be approved only if consistent with required findings in Section 17.48.110. Time extensions may be approved if consistent with required findings in Section 17.48.100.

2. Home Occupations

- a. Approval Authorized. The zoning administrator may approve applications for home occupations in residential (R) zones
  - b. Findings. A home occupation shall be approved only if it is found to comply with the provisions of this section and Section 17.60.080 of this title. No public hearing shall be required, although notice of the application shall be provided to all contiguous property owners
3. Review and Approval of Projects Exempt from California Environmental Quality Act (CEQA)
- a. Approval Authorized. The zoning administrator may review and approve projects (other than ministerial projects) which are exempt from CEQA. However, the zoning administrator may refer projects involving substantial development, such as large additions to existing structures, to the planning commission for review and approval
  - b. Findings. Such projects shall be approved only if found to comply in all respects with the provisions of this title.
4. Lot Splits on Parcels Less than One-Half (1/2) Acre in Size
- a. Approval Authorized. The zoning administrator may review and approve lot splits on parcels less than one-half (1/2) acre in size.
  - b. Findings. Such lot splits shall be approved only if found to comply in all respects with provisions of this title, applicable criteria of the city's subdivision regulations, environmental law and the State Subdivision Map Act.
5. Use Permits and Variances
- a. Approval Authorized. The zoning administrator may approve use permit and variance applications for certain projects as specified elsewhere in this title.
  - b. Findings. Use permit and variance applications shall only be approved if found to comply with the provisions of this section and with the required findings for approval of use permit and variance applications specified in Chapters 17.20 and 17.24, respectively

6 Temporary Activity Permits

a. Approval Authorized. The zoning administrator may approve temporary activity permits for certain activities as specified in this title. The zoning administrator shall determine the appropriate level of noticing, if any, required for each application.

b. Findings. A temporary activity permit shall only be approved if found to comply in all respects with the provisions of this section and with the required findings in Chapter 17.32.

7. Exotic Animals

a. Approval Authorized. The zoning administrator may approve a permit for the keeping of exotic animals. While no public hearing is required, notice of the application shall be provided to all contiguous property owners.

b. Findings. The application may only be approved if the applicant can demonstrate that the keeping of such animal(s) will not create a general nuisance (such as excessive noise or odor) or pose a safety hazard to the general neighborhood, and that appropriate approvals from regulatory state and/or federal agencies are first obtained.

8. Expansion of Nonconforming Structures

a. Approval Authorized. The zoning administrator may approve the expansion of nonconforming structures. While no public hearing is required, notice of the application shall be provided to all contiguous property owners.

b. Findings. The application may only be approved subject to compliance with this section and Chapter 17.104.

9. Sign Permit Review

a. Approved Authorized. The zoning administrator may approve certain sign permits pursuant to Chapter 17.80.

b. Findings. The application may only be approved subject to compliance with this section and Section 17.80.080(D).

10. Vacation Rentals.

a. Approval Authorized. The zoning administrator may approve a permit for a "hosted" vacation rental. While no public hearing is required, notice of the application shall be provided to all property owners located with one hundred (100) feet of the proposed vacation rental.

b. Findings. The application may only be approved subject to compliance with this sections and Chapter 17.54.

b. Table 2 of Section 17.52.020 of the Municipal Code is hereby amended to read as follows:

17.52.020 Land Use/Zone Matrix. Revised 4/16 Revised 3/17 Revised 5/19  SHARE

LAND USE/ZONE MATRIX

KEY:

Zoning Designations:

- |  |                                  |                               |
|--|----------------------------------|-------------------------------|
| C= Conditional Use (A-1) General Agricultural    | (R-4) High Density Residential   | B/P) Business Industrial Park |
| P= Permitted Use (R-R) Rural Residential         | (C-1) Neighborhood Commercial    | (M-1) Light Industrial        |
| T= Temporary Use (R-1) Single-Family Residential | (C-2) Central Business District  | (M-2) Heavy Industrial        |
| (R-2) One- and Two-Family Residential            | (C-H) Highway Service Commercial | (PQP) Public/Quasi-           |
| (R-3) Multifamily Residential                    | (O-F) Office                     | (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									
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						
COMMERCIAL AND OFFICE USES (Continued)																	
	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*
Personal Retail Services							P	P									
Personal Storage								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	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														
Businesses and Uses Prohibited by State or Federal Law																		
Day Care, Limited		P	P	P	P	P												
Dwelling, Multiple-Family					P	P	C	C3		C								
Dwelling, Single-Family	P	P4	P4	P4	C	C4		C2,3									C	
Dwelling, Two-Family or Duplex			P1	P	C	C												
Farmworker Housing Unit	P		P	P	P	P		P5										
Farmworker Housing Complex	P				P	P		P5										
Mobilehome Park		C	C	C	C	C												
Single Room Occupancy					P	P		C										
Residential Care Facility		C	C	C	C									C				
Vacation Rental (Hosted)		C	C	C	C													
Vacation Rental (Non-hosted)		C	C	C	C													
TEMPORARY 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*
Arts and Crafts Show	T						T	T	T	T	T	T	T	T	T	T	T
TEMPORARY USES (Continued)																	
	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*
Businesses and Uses Prohibited by State or Federal Law																	
Carnivals/Fairs/Fund Raisers	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T
Construction Trailers	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T
Religious Assembly	T													T	T	T	T
Seasonal Sales	T	T					T	T	T		T	T		T	T	T	T

Footnotes:

- Affordable or market rate duplexes are allowed on all corner lots in the R-1 and R-2 zones citywide.
- Only if an existing historical structure is planned for relocation to a C-2 zone that adjoins a residential district.
- 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 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.
- 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).
- For single farmworkers, single room occupancy housing is permitted.
- Vacation rental (hosted) is allowed in all residential zones upon zoning administrator approval of a vacation rental permit.

7. Vacation rental (non-hosted) is allowed in all residential zones upon planning commission approval of a conditional use permit (CUP).

\* 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.

bc. Subdivision (B) of Section 17.54 of the Municipal Code is hereby amended to read as follows:

**Chapter 17.54  
VACATION RENTALS**

**Sections:**

<b>17.54.010</b>	<b>Purpose and intent</b>
<b>17.54.020</b>	<b>Definitions</b>
<b>17.54.030</b>	<b>Requirements for an application</b>
<b>17.54.040</b>	<b>Permit requirements</b>
<b>17.54.050</b>	<b>Enforcement</b>

**17.54.010 Purpose and intent.**

The purpose of this chapter is to minimize the potential adverse impacts of transient occupancy uses in residential neighborhoods on traffic, noise and density, to ensure the health, safety and welfare of renters and guests patronizing vacation rentals in order to ensure the long term availability of housing stock in compliance with the Housing Element of the city of Winters General Plan.

**17.54.020. Definitions.**

"Advertise" means any communication that induces or encourages any person to rent for transient occupancy purposes, or provides information (to any person) that promotes the availability to rent for transient occupancy purposes, any building in the city of Winters.

"Applicant" is as defined in Section 17.04.140 of this code.

"Authorized agent" means the person specifically authorized by an owner to represent and act on behalf of the owner and to act as an operator, manager and contact person of a non-hosted accommodation, and to provide and receive any

notices identified in this section on behalf of the owner, applicant, permittee, or authorized agent.

"Bedroom" means any habitable room with no less than seventy (70) square feet of floor area and no dimension less than seven (7) feet in a dwelling other than bathroom(s), kitchen, living and dining room. Unless specifically designed to exclude its use as a bedroom (e.g., no closet, enlarged entry ways without doors, no windows open to the exterior, etc.), any den, study or other room meeting the above definition of a bedroom shall be considered a bedroom for the purpose of meeting the standards of the code.

"Community development director" as defined in Section 17.04 of this code.

"Enforcement officer" means the community development director, building official, code enforcement officer, city department manager (to the extent responsible for enforcing provisions of this code), or any other city employee designated by the community development director or city manager to enforce this section.

"Guest" means an invitee of a renter or other person visiting a renter of a vacation rental unit who does not rent the unit.

"Hosted accommodation" means a vacation rental business for which the owner or sleeps on the property of the vacation rental unit while it is being rented for transient occupancy pursuant to this section.

"Life safety" means those items required by the state of California (NFPA 101), which include: smoke and carbon monoxide detectors, fire extinguisher, functioning water heater, furnace and other gas appliances, six (6) inch or lighted address numbers visible from the street and openable windows (mean of egress) from bedrooms.

**Commented [DD1]:** Definition expanded to clarify what will be inspected by the City as part of a vacation rental permit.

"Non-hosted accommodation" means a vacation rental business for which the authorized agent is not required to reside at the vacation rental unit which is rented for transient occupancy pursuant to this section.

"Owner" is as defined in Section 17.04.140 of this code.

"Permittee" means the person to whom a vacation rental permit is issued pursuant to this section. To the extent this section identifies requirements of a permit, or obligations of the permittee, the owner and any identified authorized agent shall be jointly and severally liable (see Chapter 1.16.).

"Renter" means a person, not an owner, renting or occupying a vacation rental unit in accordance with the terms of this section.

"Reside" as used in this section, means the "domicile" of a person, as defined by California Elections Code Section 349, which generally means the place in which the person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one (1) domicile.

"Transient occupancy" means any person's use or possession, or right to use or possess, a building (or any portion thereof) for dwelling, lodging, or sleeping

purposes, for a period of thirty (30) consecutive calendar days or less (counting portions of calendar days as full days).

"Vacation rental" means any transient occupancy use for which the city has issued a vacation rental permit pursuant to this section. The term "vacation rental" shall be used to include all vacation rental businesses, all hosted accommodation vacation rentals, and all non-hosted accommodation vacation rentals.

"Vacation rental permit" means a permit issued by the community development director or a use permit issued by the planning commission.

"Vacation rental unit" means the structure in which the vacation rental use is permitted to operate, pursuant to a permit issued in accordance with this section.

"Zoning administrator" means the office of the zoning administrator pursuant to Section 65900 of the Government Code of the state.

#### 17.54.030 Requirements for an application

The community development director shall invite applications for vacation rental permits pursuant to this subsection

~~A. The community development director shall issue a written notice inviting applications for vacation rental permits in accordance with this section. Each written notice pursuant to this subsection shall be published in accordance with California Government Code Sections 6060 and 6061, and the community development director shall endeavor to use other reasonably available means of communications such as the city's Internet website.~~

~~BA.~~ Each application for a vacation rental permit shall include the following information, signed by the owner and the authorized agent for non-hosted accommodations:

1. Identify the owner of the real property on which the vacation rental is proposed (include the name, mailing address, email address, and telephone number).
2. Identify whether the application is for a hosted or a non-hosted accommodation.
3. If the vacation rental is proposed ~~for as~~ a non-hosted accommodation, identify the owner's authorized agent (include the name, mailing address, email address, and telephone number). ~~An authorized agent must be identified for each non-hosted accommodation; however, the authorized agent may be the owner, or a person other than the owner.~~
4. Identify the number of bedrooms and approximate square footage in the vacation rental unit, and the maximum number of overnight renters under the limitations imposed under subsection 17.54.040(D).
5. Insure all designated bedrooms and structures being used for habitation meet life safety current building and fire codes to include the following:
  - a. Smoke and carbon (CO2) monoxide detectors.
  - b. Fire extinguisher.

**Commented [DD2]:** Wording added to clarify that the home does not have to be brought up to current building codes.

- c. Six (6) inch or lighted address numbers visible from the street.
- d. Openable windows (means of egress) from bedrooms
- e. Functioning water heater, furnace and other gas appliances.

An inspection by the City may be necessary to verify compliance.

6. Identify the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants. Each vacation rental must provide one (1) legal off-street parking space for each guest vehicle. On-street parking in front of the vacation rental may be counted towards meeting the parking requirement.

7. Acknowledge the owner and authorized agent for non-hosted accommodations has read all regulations pertaining to the operation of a vacation rental, including this section, the city's Transient Occupancy Tax Ordinance (Chapter 3.24) and the city's Business License Ordinance (Chapter 5.04) of this code, and any additional administrative regulations as determined by the community development director necessary to implement this section. ~~7. Post or provide a copy of the rental rules and regulations.~~

~~8. Provide any other information as the community development director deems reasonably necessary to administer this section.~~

~~9. Agree that any and all use of the property for vacation rental/transient occupancy purposes shall cease upon the revocation of the vacation rental permit pursuant to subsection 17.54.040(A). 10. Certify the accuracy of the information submitted and agree to comply with all conditions of the permit.~~

**CB.** The community development director shall evaluate permit applications, and process the applications for review by the zoning administrator pursuant to Section 17.12.030(D.)<sup>10</sup> or the planning commission pursuant to Chapter 17.20 of this code and subsection D. Each applicant shall provide the following supplemental submittal in a form acceptable to the community development director:

1. Payment of the application and processing fee established by city council resolution. The fee is paid when establishing the use and is non-recurring.
2. Public notice mailing labels for "non-hosted accommodation" (to notify neighboring property owners, pursuant to Section 17.16.040(C)).
- ~~3. Provide any other information as the community development director deems reasonably necessary to establish that the applicant will comply with all requirements of this section, as identified in the notice.~~

**DC.** If the community development director determines an applicant has failed to satisfy the application requirements of subsection B or C of this section, the community development director shall provide written notice to the applicant of the determination.

~~ED~~. If the community development director determines an applicant (hosted accommodation) has satisfied the application requirements of subsections B and C of this section, and the owner has borne the burden of proving the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the community development director shall schedule for a review by the zoning administrator pursuant to Section 17.12.030(D)10 of this code. The community development director, at his or her discretion, may refer an application for a hosted facility to the planning commission. The notice shall identify the date and time on which zoning administrator shall consider the permit application

~~FE~~. If the community development director determines an applicant (non-hosted accommodation) has satisfied the application requirements of subsections B and C of this section, and the owner has borne the burden of proving the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the community development director shall schedule for a public hearing a use permit pursuant to Chapter 17.20 and of this code.

#### **17.54.040 Permit requirements**

Each vacation rental permit issued pursuant to this section shall be subject to all of the following requirements:

A. Each vacation rental permit issued under the authority of this section may be subject to an annual review by the community development department or planning commission.

~~B. The owner shall comply with all requirements of the Transient Occupancy Tax Ordinance (Chapter 3.20) and the Business License Ordinance (Chapter 5.04 of this code for the vacation rental use-C. The owner shall comply with each of the requirements of this paragraph. The owner shall permit the enforcement officer to conduct an annual inspection of the vacation rental premises to confirm compliance with this chapter and with current building and fire codes-DB.~~

Each vacation rental permit will be subject to the house rules set forth in this paragraph. The permittee shall provide the community development director with a copy of the house rules prior to rental of the vacation rental unit, and shall promptly notify the community development director in writing identifying any changes to the house rules. Prior to each rental of a vacation rental unit a copy of the house rules shall be posted in a prominent location inside the vacation rental unit. Each vacation rental shall at a minimum comply with the following:

~~1. Each vacation rental must meet all current building and fire codes and shall comply with all applicable provisions and requirements of Title 17 of this code.~~

1. The permittee shall limit overnight occupancy of the vacation rental to the specific number of renters designated in the permit, with the number of renters not to exceed two (2) guests per bedroom, plus two (2) additional guests per vacation rental unit.

- a. In no case may more than ten (10) guests, not including the host family, be allowed to sleep in a vacation rental unit, this includes any property that has multiple habitable buildings.
- b. The planning commission, ~~as part of the~~ may allow with a use permit process, may allow more than ten (10) guests to sleep in a hosted or non-hosted vacation rental unit.

**Commented [DD3]:** Planning Commission recommended change at their 9-24-19 meeting.

~~32.~~ The permittee shall limit the number overnight renters to the maximum number designated in the permit and shall require overnight renters to utilize designated on-site parking spaces to the maximum extent possible.

~~43.~~ The permittee shall provide access to the garage or carport if that area has been included in the determination of the number of available onsite spaces per this code.

~~54.~~ The permittee shall provide appropriate refuse and recycling service for the vacation rental business. Property shall be free of debris both onsite and in the street. Trash cans shall be maintained in a clean and sanitary manner in conformance with Chapter 8.04 of this code. Trash cans shall not be placed on the street prior to twenty-four (24) hours before pick up day and shall be promptly removed from the street following service.

~~65.~~ Guests of the vacation rental shall comply with the city's noise regulations in Chapter 8.20 and performance standards in Chapter 17.68. Quiet times shall be 9:00 p.m. to 7:00 a.m. Sunday through Thursday evenings and 10:00 p.m. to 7:00 a.m. Friday and Saturday evenings.

~~7.~~ The permittee shall ensure the renters and/or guests of the vacation rental do not create unreasonable noise or disturbances, engage in disorderly conduct.

~~86.~~ The permittee shall, upon notification that renters and/or guests of his or her vacation rental have violated any house rules promptly act to stop the violation and prevent a recurrence of the violation.

~~9.~~ Pools and hot tubs shall be adequately screened from adjacent properties to minimize noise impacts and shall have the hours of operation clearly posted adjacent to the facility. Hours shall comply with paragraph (7) of this subsection 7-9. It is prohibited to use the vacation rental unit for any wedding, reception, auction, commercial function, or other similar event that is inconsistent with the use of the property for transient occupancy in a residential neighborhood.

~~108.~~ Pets may be permitted by vacation rental business owner, however the pet must be attended to at all times.

**EC.** No person shall advertise the use of a building in a residential or nonresidential zoning district of the city for a transient occupancy use unless: (a) the use is an approved hotel or bed and breakfast inn; or (b) the use is a

vacation rental, which has been issued a vacation rental permit or a use permit pursuant to Chapter 17.20 of this code.

**FD.** For each vacation rental use:

1. The owner or the authorized agent must be available by telephone ~~at all times, within~~ twenty-four (24) hours ~~per day~~, while the vacation rental is rented.
2. The owner or the authorized agent (non-hosted accommodation) must be on the premises of the vacation rental unit within ~~one (1) twenty-four hours~~ of being notified (by a renter, or enforcement officer) there is a need for the owner to address an issue of permit compliance or the health, safety, or welfare of the public or the renter.
3. Only one (1) rental agreement per vacation rental unit shall be in effect at any one time.

~~4. It is a violation of this section for any accessory dwelling unit (as defined by Chapter 17.98 of this code) to be used for transient occupancy purposes.~~

~~GE. Each vacation rental permit issued in accordance with this section shall be personal to the owner to whom the permit is issued (hereinafter "permitted owner"), and no person shall transfer, or attempt to transfer, thea vacation rental permit to any other person, unless the transfer is made in accordance with this subsection~~

**HE.** Any attempt to transfer a vacation rental permit, or use a transferred vacation rental permit, not transferred in accordance with this subsection shall be void; and shall constitute a violation of this code.

**HG.** A use permit ~~granted for a non-hosted vacation rental~~ is transferrable to a purchaser of the real property on which the permitted vacation rental unit is located, subject to the conditions of approval in the use permit and set forth in this paragraph. No purchaser shall operate a vacation rental use under the permitted owner's vacation rental permit until after the community development director has approved the transfer of the permit. The permitted owner shall submit to the community development director a written notice of intent to transfer the permit to the purchaser.

**IH.** Each vacation rental permit issued pursuant to this section ~~shall may~~ be subject to an annual permit review and ~~building and fire~~ inspection ~~to insure for compliance with life safety codes as stated in Section 17.54.030.A5.~~

1. If an inspection is required by the city the owner shall pay the ~~annual~~ inspection fee established by city council resolution. ~~The owner shall document compliance with the requirements of subsection 17.54.040 (C) of this section.~~

~~2. The owner shall document compliance with all requirements of the Transient Occupancy Tax Ordinance (Chapter 3.24) and Business License Ordinance (Chapter 5.04) of this code. J. Following an annual permit review (pursuant to subsection J of this section):~~

**Commented [DD4]:** Planning Commission recommended deleting this language at their 9-24-19 meeting.

42. If the community development director determines the permittee is in compliance with all requirements of this section and the permit, the community development director shall provide written notice to the permittee.

23. If the community development director determines the permittee has failed to comply with this section or the permit, the community development director shall may notice a public hearing of the planning commission pursuant to Section 17.20.050 of this code.

34. Upon revocation of any vacation rental permit, it shall be of no further force, validity or effect, and use of the property for transient occupancy purposes shall cease.

KJ. At any time during the term of a vacation rental permit, the community development director is authorized to initiate proceedings to revoke or modify the permit (or pursue any other remedy set forth in Title 1 of this code), if the community development director determines in his or her discretion: (1) a vacation rental use is detrimental to the public health, safety, or welfare; (2) the permittee has provided materially false or misleading information in any submittal required under this section; or (3) the permittee is in violation of, or has failed to comply with, any requirements of this section or the permit.

1. Pursue any of the remedies set forth in Chapter 17.40 of this code; including, but not limited to notice a public hearing of the planning commission to consider a revocation of the use permit pursuant to Section 17.20.050 of this code.

2. Pursue any of the remedies set forth in Chapter 1.16 of this code, including, but not limited to, issuance of an administrative citation in accordance with Chapter 1.24 of this code and subsection 17.54.050.

**17.54.050 Enforcement**

It is a violation of this code, subject to enforcement pursuant to Chapter 1.16 of this code, for any person to establish or operate a transient occupancy use in any residential or nonresidential zoning district unless: (1) the use is in compliance with a hotel use in a nonresidential zoning district approved by the city pursuant to Title 17; or (2) the use is in compliance with a vacation rental permit pursuant to this section; or (3) the use is in compliance with a use permit for a bed and breakfast inn pursuant to Chapter 17.20 of this code.

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING CHAPTER 17.12 (PLANNING AGENCY) AND CHAPTER 17.54 (VACATION  
RENTALS 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 Vacation Rentals.
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 17.12 of the Municipal Code is hereby amended to read as follows:

**Chapter 17.12**  
**PLANNING AGENCY**

**17.12.030 Powers and duties of the zoning administrator**

D. Projects Subject to Zoning Administrator Review.

1. Minor Modifications and Extensions of Time of Planned Developments.
  - a. The zoning administrator may approve minor modifications of the detailed development plans or detailed development standards as well as time extensions in planned development (PD) overlay zones.
  - b. Findings.

Such minor modifications may be approved only if consistent with required findings in Section 17.48.110. Time extensions may be approved if consistent with required findings in Section 17.48.100.

2. Home Occupations.

- a. Approval Authorized. The zoning administrator may approve applications for home occupations in residential (R) zones.
  - b. Findings: A home occupation shall be approved only if it is found to comply with the provisions of this section and Section 17.60.080 of this title. No public hearing shall be required, although notice of the application shall be provided to all contiguous property owners.
3. Review and Approval of Projects Exempt from California Environmental Quality Act (CEQA).
  - a. Approval Authorized. The zoning administrator may review and approve projects (other than ministerial projects) which are exempt from CEQA. However, the zoning administrator may refer projects involving substantial development, such as large additions to existing structures, to the planning commission for review and approval.
  - b. Findings. Such projects shall be approved only if found to comply in all respects with the provisions of this title.
4. Lot Splits on Parcels Less than One-Half (1/2) Acre in Size.
  - a. Approval Authorized. The zoning administrator may review and approve lot splits on parcels less than one-half (1/2) acre in size.
  - b. Findings. Such lot splits shall be approved only if found to comply in all respects with provisions of this title, applicable criteria of the city's subdivision regulations, environmental law and the State Subdivision Map Act.
5. Use Permits and Variances.
  - a. Approval Authorized. The zoning administrator may approve use permit and variance applications for certain projects as specified elsewhere in this title.
  - b. Findings. Use permit and variance applications shall only be approved if found to comply with the provisions of this section and with the required findings for approval of use permit and variance applications specified in Chapters 17.20 and 17.24, respectively.

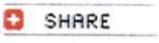
6. Temporary Activity Permits.
  - a. Approval Authorized. The zoning administrator may approve temporary activity permits for certain activities as specified in this title. The zoning administrator shall determine the appropriate level of noticing, if any, required for each application.
  - b. Findings. A temporary activity permit shall only be approved if found to comply in all respects with the provisions of this section and with the required findings in Chapter 17.32.
7. Exotic Animals.
  - a. Approval Authorized. The zoning administrator may approve a permit for the keeping of exotic animals. While no public hearing is required, notice of the application shall be provided to all contiguous property owners.
  - b. Findings. The application may only be approved if the applicant can demonstrate that the keeping of such animal(s) will not create a general nuisance (such as excessive noise or odor) or pose a safety hazard to the general neighborhood, and that appropriate approvals from regulatory state and/or federal agencies are first obtained.
8. Expansion of Nonconforming Structures.
  - a. Approval Authorized. The zoning administrator may approve the expansion of nonconforming structures. While no public hearing is required, notice of the application shall be provided to all contiguous property owners.
  - b. Findings. The application may only be approved subject to compliance with this section and Chapter 17.104.
9. Sign Permit Review.
  - a. Approved Authorized. The zoning administrator may approve certain sign permits pursuant to Chapter 17.80.
  - b. Findings. The application may only be approved subject to compliance with this section and Section 17.80.080(D).

10. Vacation Rentals.

a. Approval Authorized. The zoning administrator may approve a vacation rental permit for a "hosted" vacation rental. While no public hearing is required, notice of the application shall be provided to all property owners located with one hundred (100) feet of the proposed vacation rental.

b. Findings. The application may only be approved subject to compliance with this sections and Chapter 17.54.

b. Table 2 of Section 17.52.020 of the Municipal Code is hereby amended to read as follows:

17.52.020 Land Use/Zone Matrix. Revised 4/16 Revised 3/17 Revised 5/19 

LAND USE/ZONE MATRIX

KEY:

Zoning Designations:

- C= Conditional Use (A-1) General Agricultural (R-4) High Density Residential B/P) Business Industrial Park
- P= Permitted Use (R-R) Rural Residential (C-1) Neighborhood Commercial (M-1) Light Industrial
- T= Temporary Use (R-1) Single-Family Residential (C-2) Central Business District (M-2) Heavy Industrial
- (R-2) One- and Two-Family Residential (C-H) Highway Service Commercial (PQP) Public/Quasi-
- (R-3) Multifamily Residential (O-F) Office (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
Agricultural Operation	P	C										
Animal Production	P											
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	I
Adult Entertainment											C	C	
Automobile Repair, Major							C	C			C	C	
Automobile Repair, Minor							P	P	P		P		
Bar, Cocktail Lounge							C	C					
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		
COMMERCIAL AND OFFICE USES (Continued)													
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1	I
Personal Retail Services							P	P					
Personal Storage								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	
Stationary Food Vendor								C	C	C			
Veterinary Hospital, Kennel	C							C	P				

INDUSTRIAL 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
Businesses and Uses Prohibited by State or Federal Law												
Finished Goods Assembly											P	P
Heavy Equipment Terminal											C	C
Laboratory, Research, Equipment										C		C
Manufacturing, Heavy General												
Manufacturing, Light General												C
Mineral Extraction	C											
Recycling Center Collection								P	P		P	P

Recycling and Salvage Yards														
Warehouse, Wholesale, Freight Terminal														C
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		
Assembly Hall/Community Services	C	C					C	C		C	C			
Businesses and Uses Prohibited by State or Federal Law														
Cemetery	C													
PUBLIC & QUASI-PUBLIC USES (Continued)														
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1		
Communication Equipment Facility	C	C			C	C	C	C	C	C	C	P		
Convalescence and Care Services		C	C	C	C	C	C							
Cultural Facility						C	C							
Day Care, General		C	C	C	C	C				C	C			
Emergency Shelter					P	P		P						
Government Offices										C	C			
Hospital										C	C			
Public Parks	C	C	C	C			C	C	C					
Religious Institutions			C	C			C	C		C	C			
Safety Services							C	C		C	C			

Utility Services, Major	C	C											
Utility Services, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P
Vocational Training Facility													

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
Accessory Dwelling Units		P	P	P								
Businesses and Uses Prohibited by State or Federal Law												
Day Care, Limited		P	P	P	P	P						
Dwelling, Multiple-Family					P	P	C	C3		C		
Dwelling, Single-Family	P	P4	P4	P4	C	C4		C2,3				
Dwelling, Two-Family or Duplex			P1	P	C	C						
Farmworker Housing Unit	P		P	P	P	P		P5				
Farmworker Housing Complex	P				P	P		P5				
Mobilehome Park		C	C	C	C	C						
Single Room Occupancy					P	P		C				
Residential Care Facility		C	C	C	C							
Vacation Rental (Hosted)		C	C	C	C							
Vacation Rental (Non-hosted)		C	C	C	C							

TEMPORARY 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
Arts and Crafts Show	T						T	T	T	T	T	T
TEMPORARY USES (Continued)												
	A-1	R-R	R-1	R-2	R-3	R-4	C-1	C-2	C-H	O-F	B/P	M-1
Businesses and Uses Prohibited by State or Federal Law												
Carnivals/Fairs/Fund Raisers	T	T	T	T	T	T	T	T	T	T	T	T
Construction Trailers	T	T	T	T	T	T	T	T	T	T	T	T
Religious Assembly	T											
Seasonal Sales	T	T					T	T	T		T	T

Footnotes:

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.
6. Vacation rental (hosted) is allowed in all residential zones upon zoning administrator approval of a vacation rental permit.

7. Vacation rental (non-hosted) is allowed in all residential zones upon planning commission approval of a conditional use permit (CUP).

\* 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.

c. Subdivision (B) of Section 17.54 of the Municipal Code is hereby amended to read as follows:

## **Chapter 17.54 VACATION RENTALS**

### **Sections:**

<b>17.54.010</b>	<b>Purpose and intent</b>
<b>17.54.020</b>	<b>Definitions</b>
<b>17.54.030</b>	<b>Requirements for an application</b>
<b>17.54.040</b>	<b>Permit requirements</b>
<b>17.54.050</b>	<b>Enforcement</b>

### **17.54.010 Purpose and intent.**

The purpose of this chapter is to minimize the potential adverse impacts of transient occupancy uses in residential neighborhoods on traffic, noise and density, to ensure the health, safety and welfare of renters and guests patronizing vacation rentals in order to ensure the long term availability of housing stock in compliance with the Housing Element of the city of Winters General Plan.

### **17.54.020. Definitions.**

“Advertise” means any communication that induces or encourages any person to rent for transient occupancy purposes, or provides information (to any person) that promotes the availability to rent for transient occupancy purposes, any building in the city of Winters.

“Applicant” is as defined in Section 17.04.140 of this code.

“Authorized agent” means the person specifically authorized by an owner to represent and act on behalf of the owner and to act as an operator, manager and contact person of a non-hosted accommodation, and to provide and receive any

notices identified in this section on behalf of the owner, applicant, permittee, or authorized agent.

“Bedroom” means any habitable room with no less than seventy (70) square feet of floor area and no dimension less than seven (7) feet in a dwelling other than bathroom(s), kitchen, living and dining room. Unless specifically designed to exclude its use as a bedroom (e.g., no closet, enlarged entry ways without doors, no windows open to the exterior, etc.), any den, study or other room meeting the above definition of a bedroom shall be considered a bedroom for the purpose of meeting the standards of the code.

“Community development director” as defined in Section 17.04 of this code.

“Enforcement officer” means the community development director, building official, code enforcement officer, city department manager (to the extent responsible for enforcing provisions of this code), or any other city employee designated by the community development director or city manager to enforce this section.

“Guest” means an invitee of a renter or other person visiting a renter of a vacation rental unit who does not rent the unit.

“Hosted accommodation” means a vacation rental business for which the owner or sleeps on the property of the vacation rental unit while it is being rented for transient occupancy pursuant to this section.

“Life safety” means those items required by the state of California (NFPA 101), which include: smoke and carbon monoxide detectors, fire extinguisher, functioning water heater, furnace and other gas appliances, six (6) inch or lighted address numbers visible from the street and openable windows (mean of egress) from bedrooms.

“Non-hosted accommodation” means a vacation rental business for which the authorized agent is not required to reside at the vacation rental unit which is rented for transient occupancy pursuant to this section.

“Owner” is as defined in Section 17.04.140 of this code.

“Permittee” means the person to whom a vacation rental permit is issued pursuant to this section. To the extent this section identifies requirements of a permit, or obligations of the permittee, the owner and any identified authorized agent shall be jointly and severally liable (see Chapter 1.16.).

“Renter” means a person, not an owner, renting or occupying a vacation rental unit in accordance with the terms of this section.

“Reside” as used in this section, means the “domicile” of a person, as defined by California Elections Code Section 349, which generally means the place in which the person’s habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one (1) domicile.

“Transient occupancy” means any person’s use or possession, or right to use or possess, a building (or any portion thereof) for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less (counting portions of calendar days as full days).

“Vacation rental” means any transient occupancy use for which the city has issued a vacation rental permit pursuant to this section. The term “vacation rental” shall be used to include all vacation rental businesses, all hosted accommodation vacation rentals, and all non-hosted accommodation vacation rentals.

“Vacation rental permit” means a permit issued by the community development director or a use permit issued by the planning commission.

“Vacation rental unit” means the structure in which the vacation rental use is permitted to operate, pursuant to a permit issued in accordance with this section.

“Zoning administrator” means the office of the zoning administrator pursuant to Section 65900 of the Government Code of the state.

#### **17.54.030 Requirements for an application**

The community development director shall invite applications for vacation rental permits pursuant to this subsection

A. Each application for a vacation rental permit shall include the following information, signed by the owner and the authorized agent for non-hosted accommodations:

1. Identify the owner of the real property on which the vacation rental is proposed (include the name, mailing address, email address, and telephone number).
2. Identify whether the application is for a hosted or a non-hosted accommodation.
3. If the vacation rental is proposed for a non-hosted accommodation, identify the owner’s authorized agent (include the name, mailing address, email address, and telephone number).
4. Identify the number of bedrooms and approximate square footage in the vacation rental unit, and the maximum number of overnight renters under the limitations imposed under subsection 17.54.040(D).
5. Insure all designated bedrooms and structures being used for habitation meet life safety codes to include the following:
  - a. Smoke and carbon (CO<sub>2</sub>) monoxide detectors.
  - b. Fire extinguisher.
  - c. Six (6) inch or lighted address numbers visible from the street.
  - d. Openable windows (means of egress) from bedrooms
  - e. Functioning water heater, furnace and other gas appliances.

An inspection by the City may be necessary to verify compliance.

6. Identify the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants. Each vacation rental must provide one (1) legal off-street parking space for each guest vehicle. On-street parking in front of the vacation rental may be counted towards meeting the parking requirement.

7. Acknowledge the owner and authorized agent for non-hosted accommodations has read all regulations pertaining to the operation of a

vacation rental, including this section, the city's Transient Occupancy Tax Ordinance (Chapter 3.24) and the city's Business License Ordinance (Chapter 5.04) of this code, and any additional administrative regulations as determined by the community development director necessary to implement this section.

8. Provide any other information as the community development director deems reasonably necessary to administer this section.

9. Agree that any and all use of the property for vacation rental/transient occupancy purposes shall cease upon the revocation of the vacation rental permit pursuant to subsection 17.54.040(A).

B. The community development director shall evaluate permit applications, and process the applications for review by the zoning administrator pursuant to Section 17.12.030(D.)10 or the planning commission pursuant to Chapter 17.20 of this code and subsection D. Each applicant shall provide the following supplemental submittal in a form acceptable to the community development director:

1. Payment of the application and processing fee established by city council resolution. The fee is paid when establishing the use and is non-recurring.

2. Public notice mailing labels for "non-hosted accommodation" (to notify neighboring property owners, pursuant to Section 17.16.040(C)).

C. If the community development director determines an applicant has failed to satisfy the application requirements of subsection B or C of this section, the community development director shall provide written notice to the applicant of the determination.

D. If the community development director determines an applicant (hosted accommodation) has satisfied the application requirements of subsections B and C of this section, and the owner has borne the burden of proving the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the community development director shall schedule for a review by the zoning administrator pursuant to Section 17.12.030(D)10 of this code. The community development director, at his or her discretion, may refer an application for a hosted facility to the planning commission. The notice shall identify the date and time on which zoning administrator shall consider the permit application

E. If the community development director determines an applicant (non-hosted accommodation) has satisfied the application requirements of subsections B and C of this section, and the owner has borne the burden of proving the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the community development director shall schedule for a public hearing a use permit pursuant to Chapter 17.20 and of this code.

#### 17.54.040 Permit requirements

Each vacation rental permit issued pursuant to this section shall be subject to all of the following requirements:

A. Each vacation rental permit issued under the authority of this section may be subject to an annual review by the community development department or planning commission.

B. Each vacation rental permit will be subject to the house rules set forth in this paragraph. The permittee shall provide the community development director with a copy of the house rules prior to rental of the vacation rental unit, and shall promptly notify the community development director in writing identifying any changes to the house rules. Prior to each rental of a vacation rental unit a copy of the house rules shall be posted in a prominent location inside the vacation rental unit. Each vacation rental shall at a minimum comply with the following:

1. The permittee shall limit overnight occupancy of the vacation rental to the specific number of renters designated in the permit, with the number of renters not to exceed two (2) guests per bedroom, plus two (2) additional guests per vacation rental unit.

a. In no case may more than ten (10) guests, not including the host family, be allowed to sleep in a vacation rental unit, this includes any property that has multiple habitable buildings.

b. The planning commission may allow with a use permit more than ten (10) guests to sleep in a hosted or non-hosted vacation rental unit.

2. The permittee shall limit the number overnight renters to the maximum number designated in the permit and shall require overnight renters to utilize designated on-site parking spaces to the maximum extent possible.

3. The permittee shall provide access to the garage or carport if that area has been included in the determination of the number of available onsite spaces per this code.

4. The permittee shall provide appropriate refuse and recycling service for the vacation rental business. Property shall be free of debris both onsite and in the street. Trash cans shall be maintained in a clean and sanitary manner in conformance with Chapter 8.04 of this code. Trash cans shall not be placed on the street prior to twenty-four (24) hours before pick up day and shall be promptly removed from the street following service.

5. Guests of the vacation rental shall comply with the city's noise regulations in Chapter 8.20 and performance standards in Chapter 17.68.

6. The permittee shall, upon notification that renters and/or guests of his or her vacation rental have violated any house rules promptly act to stop the violation and prevent a recurrence of the violation.

7. It is prohibited to use the vacation rental unit for any wedding, reception, auction, commercial function, or other similar event that is

inconsistent with the use of the property for transient occupancy in a residential neighborhood.

8. Pets may be permitted by vacation rental business owner; however, the pet must be attended to at all times.

C. No person shall advertise the use of a building in a residential or nonresidential zoning district of the city for a transient occupancy use unless: (a) the use is an approved hotel or bed and breakfast inn; or (b) the use is a vacation rental, which has been issued a vacation rental permit or a use permit pursuant to Chapter 17.20 of this code.

D. For each vacation rental use:

1. The owner or the authorized agent must be available by telephone within twenty-four (24) hours, while the vacation rental is rented.

2. The owner or the authorized agent (non-hosted accommodation) must be on the premises of the vacation rental unit within twenty-four hours of being notified (by a renter, or enforcement officer) there is a need for the owner to address an issue of permit compliance or the health, safety, or welfare of the public or the renter.

3. Only one (1) rental agreement per vacation rental unit shall be in effect at any one time.

E. No person shall transfer, or attempt to transfer, a vacation rental permit to any other person, unless the transfer is made in accordance with this subsection

F. Any attempt to transfer a vacation rental permit, or use a transferred vacation rental permit, not transferred in accordance with this subsection shall be void and shall constitute a violation of this code.

G. A use permit granted for a non-hosted vacation rental is transferrable to a purchaser of the real property on which the permitted vacation rental unit is located, subject to the conditions of approval in the use permit and set forth in this paragraph. No purchaser shall operate a vacation rental use under the permitted owner's vacation rental permit until after the community development director has approved the transfer of the permit. The permitted owner shall submit to the community development director a written notice of intent to transfer the permit to the purchaser.

H. Each vacation rental permit issued pursuant to this section may be subject to an annual permit review and inspection to insure for compliance with life safety codes as stated in Section 17.54.030.A5.

1. If an inspection is required by the city the owner shall pay the inspection fee established by city council resolution.

2. If the community development director determines the permittee is in compliance with all requirements of this section and the permit, the community development director shall provide written notice to the permittee.

3. If the community development director determines the permittee has failed to comply with this section or the permit, the community development director may notice a public hearing of the planning commission pursuant to Section 17.20.050 of this code.

4. Upon revocation of any vacation rental permit, it shall be of no further force, validity or effect, and use of the property for transient occupancy purposes shall cease.

I. At any time during the term of a vacation rental permit, the community development director is authorized to initiate proceedings to revoke or modify the permit (or pursue any other remedy set forth in Title 1 of this code), if the community development director determines in his or her discretion: (1) a vacation rental use is detrimental to the public health, safety, or welfare; (2) the permittee has provided materially false or misleading information in any submittal required under this section; or (3) the permittee is in violation of, or has failed to comply with, any requirements of this section or the permit.

1. Pursue any of the remedies set forth in Chapter 17.40 of this code; including, but not limited to notice a public hearing of the planning commission to consider a revocation of the use permit pursuant to Section 17.20.050 of this code.

2. Pursue any of the remedies set forth in Chapter 1.16 of this code, including, but not limited to, issuance of an administrative citation in accordance with Chapter 1.24 of this code and subsection 17.54.050.

#### **17.54.050 Enforcement**

It is a violation of this code, subject to enforcement pursuant to Chapter 1.16 of this code, for any person to establish or operate a transient occupancy use in any residential or nonresidential zoning district unless: (1) the use is in compliance with a hotel use in a nonresidential zoning district approved by the city pursuant to Title 17; or (2) the use is in compliance with a vacation rental permit pursuant to this section; or (3) the use is in compliance with a use permit for a bed and breakfast inn pursuant to Chapter 17.20 of this code.



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Councilmembers  
**DATE:** October 15, 2019  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** John P. Miller, Chief of Police  
Kelly McCoy, Police Sergeant  
**SUBJECT:** Second Reading and Adoption of Ordinance 2019-03 to Amend Winters Municipal Code §15.20.040(H) "Section 1001.8: Uniform Fire Code, Hydrants and Fire Department Connections Parking—Prohibited."

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**RECOMMENDATION:**

Waive the second reading and adopt Ordinance 2019-03 to amend the Winters Municipal Code §15.20.040(H) "Section 1001.8: Uniform Fire Code, Hydrants and Fire Department Connections Parking—Prohibited."

**BACKGROUND:**

The Winters Police Department has an obligation to ensure public safety by enforcing violations of parking too closely to fire hydrants. California Vehicle Section §22514 states that vehicles shall not stop, park, or leave standing any vehicle within 15 feet of the hydrant, thus a hydrant requires 30 feet total clearance. As such, available on-street parking is adversely impacted. In fact, many residents within the City of Winters who have a fire hydrant located near their residence cannot legally park a vehicle in front of their house in accordance with this provision of the Vehicle Code. However, the greatest concern remains access to the fire hydrants in the event of an emergency.

California Vehicle Code §22514(b) allows local authority to adopt an ordinance or resolution to reduce the required clearance at fire hydrants. If the distance is less than

ten (10') feet total length, the distance shall be indicated by signs or markings and the painting of a red curb satisfies this requirement.

Currently, Winters Municipal Code §15.20.040(H) cites Uniform Fire Code §1001.8 and requires seven (7') feet of clearance for any hydrant or fire department connection. After consulting with the Fire Department, it appears this section of the Fire Code is no longer applicable.

It is Staff's recommendation to Council to adopt an ordinance amending Winters Municipal Code §15.20.040(H) reducing the required minimum prohibited parking distance from seven (7') feet to five (5') feet, thereby making the total distance affected to ten (10') feet. Upon adoption, Public Works would be required to paint red curbs five (5') feet in either direction of the fire hydrants to comply with California Vehicle Code §22514(b), after which the five (5') feet minimum distance can be enforced.

**FISCAL IMPACT:**

Painting the mandated red curbs by the Public Works Department is estimated to be minimal.

**ATTACHMENTS:**

1. Ordinance amending Winters Municipal Code §15.20.040(H) "Section 1001.8: Uniform Fire Code, Hydrants and Fire Department Connections Parking— Prohibited."
2. California Vehicle Code §22514 et seq.

**ORDINANCE NO. 2019-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS, CA  
AMMENDING WINTERS MUNICIPAL CODE §15.20.040(H) “SECTION 1001.8: UNIFORM  
FIRE CODE, HYDRANTS AND FIRE DEPARTMENT CONNECTIONS PARKING-  
PROHIBITED.”**

**WHEREAS**, Winters Municipal Code §15.20.040(H) cites Uniform Fire Code §1001.8 and a requires 7' feet of clearance for any hydrant or fire department connection. After consulting with the Fire Department, it appears this section of the Fire Code is no longer applicable; and

**WHEREAS**, California Vehicle Code §22514(b) allows local authority to adopt an ordinance or resolution to reduce the required clearance at fire hydrants. If the distance is less than 10 feet total length, the distance shall be indicated by signs or markings and the painting of a red curb satisfies this requirement; and

**WHEREAS**, the City Council desires to modify Winters Municipal Code §15.20.040(H), reducing the required minimum prohibited parking distance from seven (7') feet to five (5') feet, thereby making the total distance affected to ten (10') feet. Upon adoption, Pubic Works would be required to paint red curbs five (5') feet in either direction of the fire hydrants to comply with California Vehicle Code §22514(b), after which the five (5') feet minimum distance can be enforced under California Vehicle Code §22514 without further modification or addition to the Municipal Code;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS DOES  
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Winters Municipal Code §15.20.040(H) is hereby amended to read as follows:

Title 15

BUILDINGS AND CONSTRUCTION

H. Section 1001.8: Uniform Fire Code, Hydrants and Fire Department Connections Parking—Prohibited, is added to read as follows:

Where hydrants and Fire Department Connections are located along any access ways where curbs exist, such curbs shall be painted red to prohibit parking for a distance of five (5') feet in either direction from any such hydrant and Fire Department Connections. In such case where curbs do not exist, there shall be appropriate markings painted on the pavement, or signs erected, or both giving notice that parking is prohibited for five (5') feet from any such hydrant and Fire Department Connections. When such areas are signed or marked as provided herein, no person

shall park or leave standing a vehicle within five (5') feet of any such fire hydrant and/or Fire Department connections.

SECTION 3. If any provision, section, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutionally by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

**INTRODUCED** at a regular meeting on the 1<sup>st</sup> day of October, 2019, and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 15<sup>th</sup> day of October, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Bill Biasi, Mayor

**ATTEST:**

\_\_\_\_\_  
Tracy Jensen, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ethan Walsh, City Attorney

California Vehicle Code §22514

22514. No person shall stop, park, or leave standing any vehicle within 15 feet of a fire hydrant except as follows:

- (a) If the vehicle is attended by a licensed driver who is seated in the front seat and who can immediately move such vehicle in case of necessity.
- (b) If the local authority adopts an ordinance or resolution reducing that distance. If the distance is less than 10 feet total length when measured along the curb or edge of the street, the distance shall be indicated by signs or markings.
- (c) If the vehicle is owned or operated by a fire department and is clearly marked as a fire department vehicle.



**DATE:** October 15, 2019  
**TO:** Mayor and City Council  
**FROM:** John W. Donlevy, Jr., City Manager  
**SUBJECT:** Community Choice Aggregation – Approval of JPA Agreement and First Reading of Authorizing CCA Ordinance

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**Recommendations**

1. Conduct a first reading of Ordinance No. 2019-04 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING THE WINTERS MUNICIPAL CODE TO ADD CHAPTER 13.20 TO BE ENTITLED COMMUNITY CHOICE AGGREGATION (ELECTRICITY) AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM for all electricity customers in Winters by and through participation in Valley Clean Energy Alliance (VCEA) after the VCEA Board has approved Winters’ membership in the VCEA joint powers agency (JPA).
2. Adopt Resolution 2019-42 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING THE TERMS OF MEMBERSHIP TO THE VALLEY CLEAN ENERGY ALLIANCE (“VCEA”) JOINT POWERS AGENCY, AUTHORIZING THE MAYOR TO EXECUTE THE VCEA JOINT EXERCISE OF POWERS AGREEMENT ON BEHALF OF THE CITY OF WINTERS, JOINING VCEA AS AN ASSOCIATE MEMBER PRIOR TO BECOMING A FULL MEMBER AND APPOINTING TWO MEMBERS OF THE CITY COUNCIL TO SERVE AS THE CITY’S DIRECTORS ON THE VCEA BOARD approving (1) the terms of membership in the VCEA JPA, created by the City of Woodland, City of Davis and Yolo County for the purpose of operating a CCA program, and (2) membership in VCEA as an Associate Member until granted full membership in December 2019 by the VCEA Board.
3. Authorize the mayor to execute on behalf of the City the JPA agreement and any other necessary documents to participate as a member of VCEA upon the VCEA Board’s approval of Winters as a member agency.
4. Appoint two Council members to serve as the City’s representatives on the VCEA Board.
5. Direct staff to continue to conduct public outreach in coordination with VCEA, the City of Davis, and Yolo County and to support VCEA implementation and program launch until such time that the new agency has hired staff and transitioned to an operational, independent agency.

**Fiscal Analysis**

As noted in the September Council staff report, the City has submitted a \$25,000 membership fee to off-set costs associated with the load data request from PG&E, load analysis, and Implementation Plan amendments that will be submitted by VCE to the California Public Utilities Commission. Per VCE's new membership policy, this fee is refundable upon enrollment of Winters customers in VCE in 2021.

**Analysis and Discussion**

On October 1, 2019 the City Council voted to formally request membership in VCE. This action followed Council presentations and discussions in September 2018 and September 2019 on the benefits and drawbacks of joining VCE. The recommended actions in this staff report serve to implement the Council's October 1<sup>st</sup> decision to join VCE.

**JPA Formation and CCA Ordinance**

Section 366.2(c)(12)(B) of the Public Utilities Code expressly contemplates the creation of a JPA so that counties and/or cities can "participate as a group in a community choice aggregation program." The County and each city can exercise this option by doing two things: 1) entering into a Joint Powers Agreement forming a JPA under Section 6500, et seq. of the Government Code; and 2) adopting an Ordinance electing to implement a community choice program within its jurisdiction as required by Section 366.2(c)(12)(A).

An Ordinance that complies with the requirements of Section 366.2(c)(12)(A) is included as Attachment 2 to this staff report. Adoption of an Ordinance requires two public hearings, the first to introduce the ordinance and the second to adopt it. Also the current JPA Agreement establishing the Valley Clean Energy Alliance is included as an exhibit to the Ordinance.

The JPA document establishes the framework for operation of the CCA program. Key provisions of the JPA document address:

- Governance, membership, and voting (Article 3)
- Roles and responsibilities of the VCEA Board (Section 3.3)
- Recovery of initial start-up loans by City and County (Section 5.3.2)
- Addition of new member jurisdictions and withdrawal of existing members (Article 6)

Adoption of the resolution joining the JPA requires the City to appoint two members to the VCEA Board (Section 3.1 of the JPA Agreement). Staff is recommending that the Council make preliminary appointments of two Council members to the VCEA Board to facilitate participation by Winters on the VCEA Board as early as possible (anticipated to be in December).

The resolution also approves interim participation in VCEA as an Associate Member prior to joining as a full member. This would allow Winters to participate with other VCE member jurisdictions in on-going discussions related to the potential acquisition of local PG&E distribution assets. Full membership in VCE is not contingent upon nor impacted by the Council's decision to join early as an Associate Member.

The JPA agreement was designed to promote consensus decision making and to ensure a balanced approach between equal representation by agency and weighted representation according to the proportion of total energy use represented by each agency. Some key aspects of the JPA's governance and organization are summarized below.

- Board Composition: Board consists of elected officials of the members' governing bodies. Two Directors per member agency as long as there are fewer than five member agencies. If there are five or more members, each shall have only one Director.
- Upon request of two members present at a meeting, each from a different member agency, a weighted vote by shares will also be conducted. When such a request is made, an action must be approved by both a majority vote of Directors present and a majority vote of the weighted votes by shares present.
- Voting shares to be determined according to the formula: (Member's annual energy use/All members' annual energy use) x 100
- Two-thirds voting approval required for Board actions regarding (i) involuntary termination of a member and (ii) amendment of the JPA agreement.
- Seventy-five percent voting approval required for decisions (i) to exercise the power of eminent domain to acquire property interest and (ii) to impose on any member an obligation to make contributions or pledge assets as a condition of continued participation in the program.

As noted in the earlier staff reports, the City and VCEA will continue community engagement efforts to raise awareness of the program and answer community questions. A summary of these efforts include:

- Winters specific webpages, social media and printed materials in Spanish and English
- Continued public workshops and community events
- Meetings with key stakeholder groups, commercial and large energy users
- At least four customer notices (the minimum required by law)

#### Winters VCEA representation

As part of the action to join VCE the City Council would name two Council members to the VCEA Board, pending final the approval of Winters membership by the VCEA Board. In addition, Winters will be asked to recommend appointment of three community representatives to the VCEA Advisory Committee which will be considered for appointment by the full VCE Board following the seating of Winters representatives on the VCEA Board.

#### Environmental review

The adoption of the CCA ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA guidelines as it is not a "project" and it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment (14 Cal Code Regs. 15378(a)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment (14 Cal Code Regs. 15061(b)(3)). The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal Code Regs. 15308(a)).

The City Attorney has reviewed and approved the Ordinance as to form.

**Attachments**

1. JPA Resolution and Agreement
2. CCA Ordinance

**RESOLUTION 2019-42**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS  
APPROVING THE TERMS OF MEMBERSHIP TO THE VALLEY CLEAN ENERGY  
ALLIANCE (“VCEA”) JOINT POWERS AGENCY, AUTHORIZING THE MAYOR TO  
EXECUTE THE VCEA JOINT EXERCISE OF POWERS AGREEMENT ON BEHALF  
OF THE CITY OF WINTERS, JOINING VCEA AS AN ASSOICATE MEMBER PRIOR  
TO BECOMING A FULL MEMBER AND APPOINTING TWO MEMBERS OF THE  
CITY COUNCIL TO SERVE AS THE CITY’S DIRECTORS ON THE VCEA BOARD**

WHEREAS, Community Choice Aggregation (CCA) enables local governments to procure and/or develop power on behalf of their public facilities, residents, and businesses with the aim of increasing local choice in energy supply while providing electricity with high renewable energy content at rates that are competitive with those of the incumbent investor-owned utility; and

WHEREAS, since June 2018 the City of Woodland, the City of Davis and Yolo County have been operating a CCA program in accordance with the provisions of Public Utilities Code section 366.2 and established a joint powers agency (JPA), named Valley Clean Energy Alliance (“VCEA”), pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code to administer the CCE program; and

WHEREAS, the Winters City Council considered the advantages and disadvantages associated with joining a CCA program and determined that participating in the VCEA CCE has the potential to provide multiple benefits, including the potential to:

- Increase local control over, involvement in, and collaboration on energy rates and other energy-related matters,
- Provide customers with a choice of power providers and electric power products,
- Provide more stable long-term electric rates that are competitive with those provided by the incumbent utility,
- Reduce greenhouse gas emissions arising from electricity use within Winters,
- Increase local renewable generation capacity, and
- Increase energy conservation projects and programs; and

WHEREAS, the City Council on October 1, 2019, decided that it wishes to participate in the VCEA CCE program and adopted a resolution requesting membership in the VCEA JPA; and

WHEREAS, the VCEA Board is expected to approve Winters’s membership request at its December 2019 meeting; and

WHEREAS, the City Council has considered the VCEA Joint Exercise of Powers Agreement and agrees to its provisions and the requirements specified by the VCEA Board; and

WHEREAS, the City Council on October 15, 2019 introduced the ordinance required by Public Utilities Code Section 366.2 in order to be a community choice aggregator by and through VCEA participation and expects the ordinance to be adopted on November 5, 2019; and

WHEREAS, the execution of the JPA agreement, participation in VCEA, and implementation of the CCA ordinance may only take effect after the VCEA Board approves of the City of Winters's membership in VCEA; and

WHEREAS, the VCEA Board amended the JPA agreement to create an Associate Membership category and invited the City of Winters and the City of West Sacramento to join as Associate Members to participate in on-going discussions related to the potential acquisition of local PG&E distribution and associated assets.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Winters hereby:

- (1) Agrees to the terms of VCEA membership;
- (2) Approves the execution of the VCEA Joint Exercise of Powers Agreement, attached hereto as Exhibit A and incorporated herein, with the City of Woodland, the City of Davis and Yolo County;
- (3) Authorizes and directs the Mayor to execute the VCEA Joint Exercise of Powers Agreement on behalf of the City of Winters and to execute any and all other necessary documents to enter into the Joint Exercise of Powers Agreement to participate as a full member of VCEA; and
- (4) Authorizes and directs the Mayor execute any and all other necessary documents to participate as an Associate Member of VCEA until such time as the City becomes a full member of VCEA; and
- (5) Appoints two Council members to serve as the initial directors on the VCEA Board representing the City of Winters.

**PASSED AND ADOPTED** by the Winters City Council, State of California, this 15th day of October 2019, by the following vote:

Ayes:  
Noes:  
Absent:  
Abstentions:

Attest:  
City Clerk  
By \_\_\_\_\_

\_\_\_\_\_  
, Mayor

Approved as to Form:  
City Attorney  
By \_\_\_\_\_

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**JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING  
THE VALLEY CLEAN ENERGY ALLIANCE**

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers and establishes the Valley Clean Energy Alliance (“VCEA”), is by and between the County of Yolo (“County”), the City of Davis (“City”) and those other cities and counties who become signatories to this Agreement as provided herein, who agree as follows:

**RECITALS**

- A. The Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions.
- B. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local governments to develop programs to reduce greenhouse gas emissions.
- C. The purposes for entering into this Agreement include:
  - a. Reducing greenhouse gas emissions related to the use of power in Yolo County and neighboring regions;
  - b. Providing electric power and other forms of energy to customers at a competitive cost;
  - c. Carrying out programs to reduce energy consumption;
  - d. Stimulating and sustaining the local economy by developing local jobs in renewable energy; and
  - e. Promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources.
- D. It is the mission and purpose of this Agreement to build a strong Community Choice Energy program that is locally controlled and delivers cost-competitive clean electricity, product choice, price stability, energy efficiency and greenhouse gas emission reductions.

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- E. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar, wind, and biomass energy production. The purchase of renewable power and greenhouse gas-free energy sources will be the desired approach to decrease regional greenhouse gas emissions and accelerate the State's transition to clean power resources to the extent feasible. The Agency will also add increasing levels of locally generated renewable resources as these projects are developed and customer energy needs expand.
- F. The Parties desire to establish a separate public agency, known as the Valley Clean Energy Alliance or VCEA, under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
- G. The Parties anticipate adopting an ordinance electing to implement through the VCEA a common Community Choice Energy (CCE) program (also known as a community choice aggregation (CCA) program) hereinafter called a CCE Program, an electric service enterprise available to cities and counties pursuant to California Public Utilities Code Sections 331.1(b) and 366.2. The first priority of the VCEA will be the consideration of those actions necessary to implement the CCE Program.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

#### ARTICLE 1: DEFINITIONS AND EXHIBITS

- 1.1 Definitions. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.
- 1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A: Definitions  
Exhibit B: List of the Parties  
Exhibit C: Annual Energy Use  
Exhibit D: Voting Shares  
Exhibit E: Signatures

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## ARTICLE 2: FORMATION OF VALLEY CLEAN ENERGY ALLIANCE

- 2.1 Effective Date and Term. This Agreement shall become effective and VCEA shall exist as a separate public agency on October 25, 2016, or when the County and the City execute this Agreement, whichever occurs later. The VCEA shall provide notice to the Parties of the Effective Date. VCEA shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 6.4, subject to the rights of the Parties to withdraw from VCEA.
- 2.2 Formation. There is formed as of the Effective Date a public agency named Valley Clean Energy Alliance. Pursuant to Sections 6506 and 6507 of the Act, VCEA is a public agency separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of VCEA shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of VCEA. A Party who has not agreed to assume an VCEA debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of VCEA. Notwithstanding Section 7.4 of this Agreement, this Section 2.2 may not be amended unless such amendment is approved by the governing board of each Party.
- 2.2.1 Name. VCEA may change its name at any time through adoption of a resolution of the Board of Directors.
- 2.3 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to build a strong CCE program that achieves deep, long-term GHG emission reductions by offering clean, cost effective and price stable electricity to residents, businesses, and agricultural producers while carrying out innovative programs to reduce customer energy use, substantially increase local renewable energy production, and power the local transportation system. To that end, VCEA will study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCE Program, as further described in Section 4.1. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCE Program and any other energy programs approved by VCEA.

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2.4 Membership in VCEA.

2.4.1 The initial members of VCEA are the County of Yolo and the City of Davis. The Cities of Woodland, West Sacramento and Winters may also become initial members of VCEA by resolution of the city's city council adopted prior to the Effective Date.

2.4.2 Any city or county, that is not an initial member, may request to become a member of VCEA by submitting a resolution adopted by its City Council or Board of Supervisors to the Board of VCEA. The Board shall review the request and shall vote to approve or disapprove the request. The Board may establish conditions, including but not limited to financial conditions, under which the city or county may become a member of VCEA. The Board shall notify the then members of VCEA of this request and the date that the request will be on the Board's meeting agenda for action. The date set for Board action shall be at least forty-five (45) days from the date the notice is mailed to the members. If the request is approved by the Board, the city or county shall become a member of VCEA under the terms and conditions set forth by the Board and upon approval and execution of this Agreement by the city or county.

2.5 Powers. VCEA shall have all powers common to the Parties and such additional powers accorded to it by law. VCEA is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following powers, subject to the voting requirements set forth in Section 3.7 through 3.7.5:

2.5.1 to make and enter into contracts;

2.5.2 to employ agents and employees, including but not limited to an Executive Officer;

2.5.3 to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works, or improvements;

2.5.4 to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property; however, VCEA shall not exercise the power of eminent domain within the jurisdiction of a Party over its objection without first meeting and conferring in good faith.

2.5.5 to lease any property;

2.5.6 to sue and be sued in its own name;

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- 2.5.7 to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Sections 53850 et seq. and authority under the Act;
  - 2.5.8 to form subsidiary or independent corporations or entities if necessary, to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;
  - 2.5.9 to issue revenue bonds and other forms of indebtedness;
  - 2.5.10 to apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;
  - 2.5.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCE Program and other energy programs;
  - 2.5.12 to adopt Operating Rules and Regulations;
  - 2.5.13 to make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCE Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and
  - 2.5.14 to permit additional Parties to enter into this Agreement after the Effective Date and to permit another entity authorized to be a community choice aggregator to designate VCEA to act as the community choice energy aggregator on its behalf.
- 2.6 Limitation on Powers. As required by Government Code Section 6509, the power of VCEA is subject to the restrictions upon the manner of exercising power possessed by City of Davis.

**ARTICLE 3: GOVERNANCE AND INTERNAL ORGANIZATION**

- 3.1 Board of Directors. VCEA shall be governed by a legislative body known as the a Board of Directors (“Board”). The Initial Board shall consist of two (2) directors appointed by each of the initial members; for example, if the initial members are the County of Yolo and the City of Davis, the board shall be four (4) directors with two (2) directors appointed by the Yolo County Board of Supervisors and two (2) directors appointed by the City Council of Davis. Each Director shall serve at the pleasure of the governing board of the Party who appointed such Director, and may be removed as Director by such governing

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board at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director within 60 days of the date that such position becomes vacant. Directors must be members of the Board of Supervisors or members of the City Council of the appointing City that is the signatory to this Agreement. Each Party may appoint an alternate(s) to serve in the absence of its Director(s). Alternates may be either (1) members of the Board of Supervisors or (2) members of the governing board of the municipality that is the signatory to this Agreement.

If additional cities or counties join VCEA, as set forth in section 2.4, each city or county that becomes a member of VCEA shall be entitled to two (2) directors who shall be appointed as set forth above. When the fifth member joins VCEA, the number of directors per member agency of all current member agencies shall be reduced to one (1) director per member agency.

- 3.1.1 Ex officio Directors. The Board may appoint ex officio members of the Board. Ex officio directors shall receive all meeting notices, shall have the right to participate in Board discussions and the right to place items on the agenda but shall not be counted towards a quorum and shall have no vote.
- 3.2 Quorum. A majority of the appointed Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.
- 3.3 Powers and Functions of the Board. The Board shall exercise general governance and oversight over the business and activities of VCEA, consistent with this Agreement and applicable law. The Board shall provide general policy guidance to the CCE Program. Board approval shall be required for any of the following actions:
  - 3.3.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing.
  - 3.3.2 The appointment or termination of the Executive Officer and General Counsel.
  - 3.3.3 The appointment or removal of officers described in Section 3.9, subject to Section 3.9.3.
  - 3.3.4 Any decision to provide retirement or post-retirement benefits that are defined benefit programs, subject to the requirements of section 5.3.4, below.
  - 3.3.5 The adoption of the Annual Budget.

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- 3.3.6 The adoption of an ordinance.
- 3.3.7 The approval of agreements, except as provided by Section 3.4.
- 3.3.8 The initiation or resolution of claims and litigation where VCEA will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Executive Officer or General Counsel, on behalf of VCEA, may intervene in, become a party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board as long as such action is consistent with any adopted Board policies.
- 3.3.9 The setting of rates for power sold by VCEA and the setting of charges for any other category of service provided by VCEA.
- 3.3.10 Termination of the CCE Program.
- 3.4 Executive Officer. The Board of Directors shall appoint an Executive Officer for VCEA, who shall be responsible for the day-to-day operation and management of VCEA and the CCE Program. The Executive Officer may be retained under contract with VCEA, be an employee of VCEA, or be an employee of one of the Parties. The Executive Officer shall report directly to the Board and serve as staff to VCEA. Except as otherwise set forth in this Agreement, the Executive Officer may exercise all powers of VCEA, including the power to hire, discipline and terminate employees as well as the power to approve any agreement if the total amount payable under the agreement is less than \$100,000 in any fiscal year, or such higher amount as established by the Board from time to time, by resolution of the Board, except the powers specifically set forth in Section 3.3 or those powers which by law must be exercised by the Board of Directors. The Executive Officer shall serve at the pleasure of the Board.
- 3.5 Commissions, Boards, and Committees. The Board may establish commissions, boards or committees, including but not limited to a standing executive committee of the Board, as the Board deems appropriate, to assist the Board in carrying out its authority and functions under this Agreement and may delegate authority to such commission, board or committee as set forth in a Board resolution. Such delegation may be modified, amended or revoked as any time as the Board may deem appropriate. Any decision delegated pursuant to this subsection may be appealed to the Board, as the Board so determines.
  - 3.5.1 The Board may also establish any advisory commissions, boards, and committees as the Board deems appropriate to assist the Board in carrying

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out its functions and implementing the CCE Program, other energy programs and the provisions of this Agreement.

- 3.5.2 Any board, commission or committee formed under this section shall comply with the requirements of the Ralph M. Brown Act. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expenses.
- 3.6 Director Compensation. Directors shall serve without compensation from VCEA. However, Directors may be compensated by their respective appointing authorities. The Board, however, may adopt by resolution a policy relating to the reimbursement by VCEA of expenses incurred by Directors.
- 3.7 Voting. In general, as described below in Section 3.7.3, action by VCEA Board will be taken solely by a majority vote of the total number of Directors present; provided, however, that so long as VCEA consists of three or less members, all actions of the Board shall require the affirmative vote of at least one director appointed by each member. In addition, as described below in Section 3.7.4, upon request of two (2) Directors each from a different member agency, a weighted vote by shares will also be conducted. When such a request is made, an action must be approved by both a majority vote of Directors present and a majority of the weighted vote by shares present. No action may be approved solely by a vote by shares. The voting shares of Directors and approval requirements for actions of the Board shall be as follows:

3.7.1 Voting Shares.

Each member agency shall have a voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 100, where

- (a) “Annual Energy Use” means, (i) with respect to the first two (2) years following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“kWh”), within the Party’s respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage during the prior Fiscal Year, expressed in kWh, of accounts within a Party’s respective jurisdiction that are served by VCEA; and
- (b) “Total Annual Energy” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy Use will be designated in Exhibit C, and shall be adjusted annually as soon as

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reasonably practicable after January 1, but no later than March 1 of each year. These adjustments shall be approved by the Board.

- (c) The combined voting share of all Directors representing a member agency shall be based upon the annual electricity usage within the member agency's jurisdiction; the combined voting share of a county shall be based upon the annual electricity usage within the unincorporated area of the county.

For the purposes of Weighted Voting, if a member agency has more than one director present and voting, then the voting shares allocated to the entity shall be equally divided amongst its Directors that are present and voting.

- 3.7.2 Exhibit Showing Voting Shares. The initial voting shares will be set forth in Exhibit D. Exhibit D shall be revised no less than annually as necessary to account for changes in the number of Parties and changes in the Parties' Annual Energy Use. Exhibit D and adjustments shall be approved by the Board.
- 3.7.3 Approval Requirements Relating to CCE Program. Except as provided in Sections 3.7 above and 3.7.4 and 3.7.5 below, action of the Board shall require the affirmative vote of a majority of Directors present at the meeting.
- 3.7.4 Option for Approval by Voting Shares. Notwithstanding Section 3.7.3, any two (2) Directors, each appointed from a different member agency, present at a meeting may demand that approval of any matter related to the CCE Program be determined on the basis of both voting shares and by the affirmative vote of a majority of Directors present at the meeting. If two Directors makes such a demand with respect to approval of any such matter, then approval of such matter shall require the affirmative vote of a majority of Directors present at the meeting and the affirmative vote of Directors having a majority of voting shares present, as determined by Section 3.7.1 except as provided in Section 3.7.5.
- 3.7.5 Special Voting Requirements for Certain Matters.
  - (a) Two-Thirds and Weighted Voting Approval Requirements Relating to Sections 6.2 and 7.4. Action of the Board on the matters set forth in Section 6.2 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) shall require the affirmative vote of at least two-thirds of Directors present; provided, however, that (i) notwithstanding the foregoing, any two (2) Directors present at the meeting, each appointed from a

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different member agency, may demand that the vote be determined on the basis of both voting shares and by the affirmative vote of Directors, and if any two (2) Directors makes such a demand, then approval shall require the affirmative vote of both at least two-thirds of Directors present and the affirmative vote of Directors having at least two-thirds of the voting shares present, as determined by Section 3.7.1; (ii) but, Directors from at least two (2) Parties must vote against a matter for the vote to fail; and (iii) for votes to involuntarily terminate a Party under Section 6.2, the Director(s) for the Party subject to involuntary termination may not vote, and the number of Directors constituting two-thirds of all Directors, and the weighted vote of each Party shall be recalculated as if the Party subject to possible termination were not a Party.

(b) Seventy-Five Percent Special Voting Requirements for Eminent Domain and Contributions or Pledge of Assets.

(i) A decision to exercise the power of eminent domain on behalf of VCEA to acquire any property interest other than an easement, right-of-way, or temporary construction easement shall require a vote of at least 75% of all Directors present and voting and a vote of at least two-thirds of all the members of the Board of Directors .

(ii) The imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCE Program shall require a vote of at least 75% of all Directors present and voting and the approval of the governing boards of the Parties who are being asked to make such contribution or pledge.

(iii) Notwithstanding the foregoing, any two (2) Directors present at the meeting, each appointed by a different member agency, may demand that a vote under subsections (i) or (ii) be determined on the basis of voting shares and by the affirmative vote of Directors, and if any two (2) Directors makes such a demand, then approval shall require both the affirmative vote of at least 75% of Directors present and the affirmative vote of Directors having at least 75% of the voting shares present, as determined by Section 3.7.1, but Directors from at least two (2) Parties must vote against a matter for the vote to fail. For purposes of this section, "imposition on any Party of any obligation to make

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contributions or pledge assets as a condition of continued participation in the CCE Program” does not include any obligations of a withdrawing or terminated party imposed under Section 6.3.

- 3.8 Meetings and Special Meetings of the Board. The Board shall hold at least six (6) regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special and Emergency Meetings of the Board may be called in accordance with the provisions of California Government Code Sections 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).
- 3.9 Selection of Board Officers.
- 3.9.1 Chair and Vice Chair. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The Chair and vice Chair shall serve at the pleasure of the Board. There shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:
- (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or
  - (b) the Party that he or she represents withdraws from VCEA pursuant to the provisions of this Agreement.
- 3.9.2 Secretary. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of VCEA.
- 3.9.3 Treasurer and Auditor. The Treasurer shall function as the combined offices of Treasurer and Auditor pursuant to Government code section 6505.6 and shall strictly comply with the statutes related to the duties and responsibilities specified in Section 65.5 of the Act. The Treasurer for VCEA shall be the depository and have custody of all money of VCEA from whatever source and shall draw all warrants and pay demands against VCEA as approved by the Board. The Treasurer shall cause an independent audit(s) of the finances of VCEA to be made by a certified public accountant, or public accountant, in compliance with Section 6505

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of the Act. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 5. The Treasurer shall serve at the pleasure of the Board.

- 3.10 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as VCEA's agent for planning, implementing, operating and administering the CCE Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. One or more of the Parties may agree to provide all or a portion of the services in the manner set forth in an Administrative Services Agreement. Employees of the member agencies utilized to perform such services shall remain employees of the member agency and subject to the employing member agency's control and supervision. An Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all or enumerated tasks necessary for planning, implementing, operating and administering the CCE Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement, the services to be provided, and the circumstances under which the Administrative Services Agreement may be terminated by VCEA. This section shall not in any way be construed to limit the discretion of VCEA to hire its own employees to administer the CCE Program or any other program.

#### ARTICLE 4: IMPLEMENTATION ACTION AND VCEA DOCUMENTS

- 4.1 Preliminary Implementation of the CCE Program.
- 4.1.1 Enabling Ordinance. To be eligible to participate in the CCE Program, each Party must adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCE Program by and through its participation in VCEA.
- 4.1.2 Implementation Plan. VCEA shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 3.7.3.

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- 4.1.3 Termination of CCE Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of VCEA to terminate the implementation or operation of the CCE Program at any time in accordance with any applicable requirements of state law.
- 4.2 VCEA Documents. The Parties acknowledge and agree that the affairs of VCEA will be implemented through various documents duly adopted by the Board through Board resolution. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board, subject to the Parties' right to withdraw from VCEA as described in Article 6.

#### ARTICLE 5: FINANCIAL PROVISIONS

- 5.1 Fiscal Year. VCEA's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.
- 5.2 Depository.
- 5.2.1 All funds of VCEA shall be held in separate accounts in the name of VCEA and not commingled with funds of any Party or any other person or entity.
- 5.2.2 All funds of VCEA shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of VCEA shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of VCEA, which shall be conducted in accordance with the requirements of Section 6505 of the Act.
- 5.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.
- 5.3 Budget and Recovery of Costs.
- 5.3.1 Budget. The initial budget shall be approved by the Board. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of VCEA shall be approved by the Board in accordance with the Operating Rules and Regulations.

June 13, 2017

- 5.3.2 Funding of Initial Costs. The County of Yolo and the City of Davis have funded certain activities necessary to implement the CCE Program. If the CCE Program becomes operational, these Initial Costs paid by the County and the City shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent recovery of such costs is permitted by law, and the County and the City shall be reimbursed from the payment of such charges by customers of VCEA. Prior to such reimbursement, the County and the City shall provide such documentation of costs paid as the Board may request. VCEA may establish a reasonable time period over which such costs are recovered. In the event that the CCE Program does not become operational, Yolo and Davis shall not be entitled to any reimbursement of the Initial Costs that have paid from VCEA or any Party. If any of the initial member agency assists in funding initial costs, that initial member shall also be entitled to reimbursement pursuant to this section.
- 5.3.3 CCE Program Costs. The Parties desire that all costs incurred by VCEA that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCE Program, including but not limited to the establishment and maintenance of various reserves and performance funds and administrative, accounting, legal, consulting, and other similar costs, shall be recovered through charges to CCE customers receiving such electric services, or from revenues from grants or other third-party sources.
- 5.3.4 Employee Retirement and Post-retirement benefits. Should the Board determine to provide a defined benefits retirement benefit to VCEA employees (such as PERS) or other post-retirements benefits that would be within an Other Post-Retirement Benefits (OPEB) obligation to VCEA employees, prior to providing such benefit(s) to any employee, the Board shall (1) obtain a third party independent actuarial report on the long term costs of the benefit or benefits, (2) adopt a funding plan for the payment of both current and long-term costs that provides for the payment of all such costs on a current, pay-as-you-go, basis and eliminates any known or reasonably anticipated unfunded liability associated with the benefit(s) and (3) notice all member agencies of the pending consideration of the benefit(s) together with the actuarial report and funding plan, for at least sixty (60) days and obtain the unanimous consent, by resolution, of all the Directors present and voting on the resolution. .

## ARTICLE 6: WITHDRAWAL AND TERMINATION

### 6.1 Withdrawal.

June 13, 2017

- 6.1.1 Right to Withdraw. A Party may withdraw its participation in the CCE Program, effective as of the beginning of VCEA's fiscal year, by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to VCEA and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.
- 6.1.2 Right to Withdraw After Amendment. Notwithstanding Section 6.1.1, a Party may withdraw its membership in VCEA following an amendment to this Agreement adopted by the Board which the Party's Director(s) voted against provided such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party shall require an affirmative vote of the Party's governing board and shall not be subject to the six month advance notice provided in Section 6.1.1. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.3.
- 6.1.3 The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers, VCEA shall provide to the Parties the report from the electrical utility consultant retained by VCEA that compares the total estimated electrical rates that VCEA will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that VCEA is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than the incumbent utility or to provide power in a manner that has a lower greenhouse gas emissions rate or uses less renewable energy than the incumbent utility, a Party may immediately withdraw its membership in VCEA without any financial obligation, as long as the Party provides written notice of its intent to withdraw to VCEA Board no more than fifteen (15) days after receiving the report. Any withdrawing Party shall not be entitled to any return of funds provided to VCEA, provided, however, that if, after the program is launched there an unobligated and unused funds, the withdrawing member shall be refunded its pro rata share of the unobligated and unused funds.
- 6.1.4 Continuing Financial Obligation: Further Assurances. Except as provided by Section 6.1.3, a Party that withdraws its participation in the CCE Program may be subject to certain continuing financial obligations, as described in Section 6.3. Each withdrawing Party and VCEA shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from participation in the CCE Program.

June 13, 2017

- 6.2 Involuntary Termination of a Party. Participation of a Party in the CCE Program may be terminated for material non-compliance with provisions of this Agreement or any other agreement relating to the Party's participation in the CCE Program upon a vote of Board members as provided in Section 3.7.5. Prior to any vote to terminate participation with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least thirty (30) days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or other agreement that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its participation in the CCE Program terminated may be subject to certain continuing liabilities, as described in Section 6.3.
- 6.3 Continuing Financial Obligations; Refund. Except as provided by Section 6.1.3, upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or other financial obligations arising from the Party membership or participation in the CCE Program through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any financial obligations arising after the date of the Party's withdrawal or involuntary termination. Claims, demands, damages, or other financial obligations for which a withdrawing or terminated Party may remain liable include, but are not limited to, losses from the resale of power contracted for by VCEA to serve the Party's load and any unfunded liabilities such as unfunded retirement contributions or costs and any unfunded post-retirement benefits. With respect to such financial obligations, upon notice by a Party that it wishes to withdraw from the CCE Program, VCEA shall notify the Party of the minimum waiting period under which the Party would have no costs for withdrawal if the Party agrees to stay in the CCE Program for such period. The waiting period will be set to the minimum duration such that there are no costs transferred to remaining ratepayers. If the Party elects to withdraw before the end of the minimum waiting period, the charge for withdrawal shall be set at a dollar amount that would offset actual costs to the remaining ratepayers, and may not include punitive charges that exceed actual costs. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. VCEA may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with VCEA, as reasonably determined by VCEA and approved by a vote of the Board of Directors, to cover the Party's financial obligations for the costs described above. Any amount of the Party's funds held on deposit with VCEA above that which is

June 13, 2017

required to pay any financial obligations shall be returned to the Party. If there is a disagreement related to the charge(s) for withdrawal or exiting, the Parties shall attempt to settle the amount through mediation or other dispute resolution process as authorized by section 7.1. If the dispute is not resolved, the Parties may agree in writing to proceed to arbitration, or any party may seek judicial review. The liability of any Party under this section 6.3 is subject and subordinate to the provisions of Section 2.2, and nothing in this section 6.3 shall reduce, impair, or eliminate any immunity from liability provided by Section 2.2.

- 6.4 Mutual Termination. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its participation in the CCE Program, as described in Section 6.1.
- 6.5 Disposition of Property upon Termination of VCEA. Upon termination of this Agreement, any surplus money or assets in possession of VCEA for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

#### ARTICLE 7: MISCELLANEOUS PROVISIONS

- 7.1 Dispute Resolution. The Parties and VCEA shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Should such informal efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be mediated in accordance with policies and procedures established by the Board.
- 7.2 Liability of Directors, Officers, and Employees. The Directors, officers, and employees of VCEA shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. VCEA shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Sections 995 et seq. Nothing in this section shall be construed to limit the defenses and immunities available under the law, to the Parties, VCEA, or its Directors, officers, or employees.
- 7.3 Indemnification of Parties. VCEA shall acquire such insurance coverage as is necessary to protect the interests of VCEA, the Parties, and the public. VCEA shall defend, indemnify, and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all

Approval of Woodland as member of JPA –

June 13, 2017

claims, losses, damages, costs, injuries, and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of VCEA under this Agreement.

- 7.4 Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by a vote of Board members as provided in Section 3.7.5. VCEA shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments, at least 30 days prior to the date upon which the Board votes on such amendments.
- 7.5 Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 7.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 7.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to VCEA, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of VCEA or the Parties under this Agreement.
- 7.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.
- 7.7 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.
- 7.8 Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.
- 7.9 Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with

Approval of Woodland as member of JPA –

June 13, 2017

return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of VCEA or Party, as the case may be, or such other person designated in writing by VCEA or Party. Notices given to one Party shall be copied to all other Parties. Notices given to VCEA shall be copied to all Parties.

CITY:

CITY OF DAVIS, a California municipal corporation

By: \_\_\_\_\_  
Robb Davis, Mayor

ATTEST:

By: \_\_\_\_\_  
Zoe Mirabile, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Harriet A. Steiner, City Attorney

COUNTY:

COUNTY OF YOLO

By: \_\_\_\_\_  
Jim Provenza, Chair  
Board of Supervisors

ATTEST:

Julie Dachtler, Deputy Clerk  
Board of Supervisors

By: \_\_\_\_\_  
Deputy (Seal)

APPROVED AS TO FORM:

Philip Pogledich, County Counsel

By: \_\_\_\_\_  
Eric May, Senior Deputy County Counsel

Page 19 of 25

**EXHIBIT A  
DEFINITIONS**

“Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)

“Administrative Services Agreement” means an agreement or agreements entered into after the Effective Date by VCEA with an entity that will perform tasks necessary for planning, implementing, operating and/or administering the CCE Program, or any portion of the CCE Program or any other energy programs adopted by VCEA.

“Agreement” means this Joint Powers Agreement.

“Alliance” or “Authority” or “VCEA” means the Valley Clean Energy Alliance.

“Annual Energy Use” has the meaning given in Section 3.7.1.

“Board” means the Board of Directors of VCEA.

“CCE” or “Community Choice Energy” or “CCA” or “Community Choice Aggregation” means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

“CCE Program” or “CCA Program” means VCEA’s program relating to CCE that is principally described in Sections 2.3, 2.4, and 4.1.

“Director” means a member of the Board of Directors representing a Party.

“Effective Date” means October 25, 2016 or when initial members of VCEA, including but not limited to the County of Yolo and the City of Davis execute this Agreement, whichever occurs later, as further described in Section 2.1.

“Implementation Plan” means the plan generally described in Section 4.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCE Program.

“Initial Costs” means all costs incurred by the County, the City and/or VCEA relating to the establishment and initial operation of VCEA, such as the hiring of an Executive Officer and any administrative staff, and any required accounting, administrative, technical, or legal services in support of VCEA’s initial activities or in support of the negotiation, preparation, and approval of one or more Administrative Services Agreements.

“Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of VCEA.

**Exhibit A**

“Parties” or “Members” means, collectively, the County, the City of Davis and any city or county which executes this Agreement.

“Party”, “Member” or “Member Agency” means a signatory to this Agreement.

“Total Annual Energy” has the meaning given in Section 3.7.1.

“VCEA Document(s)” means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions, and activities of VCEA, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

**EXHIBIT B  
LIST OF PARTIES**

Parties: County of Yolo  
City of Davis  
City of Woodland

**EXHIBIT C  
ANNUAL ENERGY USE / VOTING SHARES**

Unincorporated Yolo County	318,300,165 KWh
Davis	284,129,391 KWh
Woodland	351,904,519 KWh

**EXHIBIT D**  
**VOTING SHARES 6/13/17**

Unincorporated Yolo County	318,300,165 KWh	33.353117 votes
Davis	284,129,391 KWh	29.772529 votes
Woodland	<u>351,904,519 KWh</u>	<u>36.874353 votes</u>
Total	954,334,075 KWh	

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Approved [October 25, 2016]  
JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING THE VALLEY CLEAN ENERGY ALLIANCE  
(6/8/2017)  
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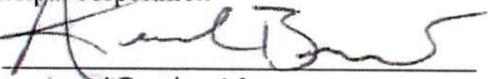
EXHIBIT E  
SIGNATURE PAGE(S)

Woodland membership – effective 6/13/2017

Approved by the City of Woodland And VCEA

CITY:

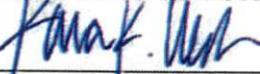
CITY OF WOODLAND, a California  
municipal corporation

By:   
Angel Barajas, Mayor

ATTEST:

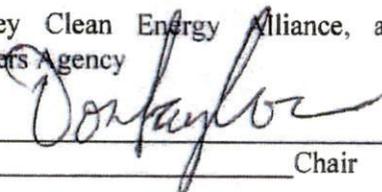
By:   
Ana Gonzalez, City Clerk

APPROVED AS TO FORM:

By:   
Kara Ueda, City Attorney

VCEA:

Valley Clean Energy Alliance, a Joint  
Powers Agency

By:   
Chair

**FIRST AMENDMENT TO THE JOINT EXERCISE OF POWERS AGREEMENT  
RELATING TO AND CREATING THE VALLEY CLEAN ENERGY ALLIANCE**

This FIRST AMENDMENT amends the Joint Exercise of Powers Agreement referenced above and dated October 25, 2016, (hereafter the "JPA Agreement") to modify the purposes of VALLEY CLEAN ENERGY ALLIANCE ("VCEA") related to public power and to authorize certain local agencies to join VCEA as Associate Members.

This FIRST AMENDMENT is effective upon approval by the Cities of Davis and Woodland and the County of Yolo (collectively, the "Parties"), who agree as follows:

**RECITALS**

- A. The Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions;
- B. One of the current purposes of VCEA is to promote long-term electric rate stability and electric security and reliability; reduction of greenhouse gas emissions, and reliability for residents through local control;
- C. During the last several years there have been devastating wildfires and serious issues have arisen regarding the safety and security of the electric distribution system currently owned by Pacific Gas & Electric ("PG&E") and PG&E has filed for reorganization through the United States Bankruptcy Court;
- D. The County of Yolo and the Cities of Davis and Woodland, together with other cities in Yolo County, have previously but unsuccessfully investigated acquiring and have attempted to acquire the local electrical distribution system in all or portions of Yolo County and the cities of Yolo County in order to form a publicly owned electrical utility or to be annexed to the Sacramento Municipal Utility District. The members of VCEA together with other participating cities within Yolo County now wish to again investigate the possibility of acquiring the local electrical distribution system in the context of the PG&E bankruptcy proceeding. To that end, the Parties wish to authorize VCEA to pursue this investigation and, then, as may be deemed appropriate, to acquire the Yolo County local electrical distribution system, or portions thereof, and related equipment and property and thereafter, to own and operate this system.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

- 1. Section 2.3 of the JPA Agreement is amended to add section 2.3.1 to read as follows:

2.3.1 Additional Purpose: Public Power: Investigation of and Acquisition and Operation of the Yolo County Local Electrical Distribution System. In addition to the purposes set

forth above in Section 2.3, the purpose of this Agreement and VCEA shall also be to investigate the acquisition of the Local Electrical Distribution System. After the completion of all appropriate due diligence and investigations, and subject to final approval by the governing body of each Member or Associate Member within whose jurisdictional boundaries the electrical distribution system is located, VCEA may proceed to acquire the local distribution system through the pending PG&E bankruptcy action or through other appropriate means. If VCEA acquires the local electrical distribution system, the purpose of VCEA shall also include operation of the local electrical distribution system. The Parties hereby find that this purpose -- of investigating and potentially owning and operating a publicly-owned power utility (or "POU") that will be a strong local program that could achieve deep, long-term GHG emission reductions by offering clean, cost-effective and stable electricity to residents, business and agricultural producers, that has the desire and ability to improve the local distribution system so that it is safe and efficient and addresses fire safety and other risks, and that is responsive to local needs and concerns -- advances the CCE purpose in the full context of providing public power, is an important purpose and goal for VCEA, and is fully consistent with VCEA's existing purposes, role and function as a CCE.

2. Section 2.4 of the JPA Agreement related to membership in VCEA is hereby amended to add section 2.4.3 related to Associate Membership in VCEA to read as follows:

2.4.3 Associate Membership: Local Electrical Distribution System. Any city in Yolo County that is not already a member of VCEA may request to join VCEA as an Associate Member for the purposes set forth in section 2.3.1, above, including but not limited to participating in the investigation of acquiring the Local Electrical Distribution System, and if VCEA determines to proceed, the acquisition of the Local Electrical Distribution System and the operation of the Local Electrical Distribution System as a Publicly Owned Power Utility. Any such city may make this request to become an Associate Member of VCEA by submitting a resolution adopted by its City Council to the Board of VCEA. The Board shall review the request and shall vote to approve or disapprove the request. The Board may establish conditions, including but not limited to financial conditions, under which the city may become an Associate Member of VCEA. The Board shall notify the then members of VCEA of this request and the date that the request will be on the Board's regular or special meeting agenda for action. The Board shall endeavor to place the request on the next regular meeting of VCEA or, in the alternative, the Board may hold a special meeting to consider and act on the request. Upon approval by the VCEA Board and execution of the JPA Agreement, Associate Members shall have all the rights of a member of VCEA on issues related to the Local Electrical Distribution system only and shall not participate on matters related to VCEA's actions as a CCA. The requirements of Section 2.4.2 shall not apply to any request to join VCEA as an Associate Member.

3. Section 3.1 of the JPA Agreement is hereby amended to add sections 3.1.2 and 3.1.3 to read as follows:

3.1.2 Board of Directors: Associate Directors. Each Associate Member(s) shall appoint two (2) members of its City Council to serve as Associate Directors who shall participate only in matters related to the Local Energy Distribution System. If the number of non-

Associate Members of VCEA exceeds four (4) entities, each Associate Member shall appoint one (1) Associate Director. For Local Energy Distribution System matters, the Associate Directors shall sit on the Board and shall be counted towards a quorum for purposes of Section 3.2 and are eligible to vote on matters related to the Local Energy Distribution System. Each Associate Director shall serve at the pleasure of the City Council of the Associate Member who appointed such Director, and may be removed as Director by such City Council at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Associate Director within 60 days of the date that such position becomes vacant. Each Associate Member may appoint an alternate(s) to serve in the absence of its Director(s). Alternates shall be members of the City Council of the Associate Member.

3.1.3 Procedures and Voting on Matters Related to the Local Distribution System. If an Associate Member(s) join VCEA and Associate Directors are added to the Board, then notwithstanding any other provision of this JPA Agreement:

(a) the number of Directors and Associate Directors per member or Associate Member agency shall remain at two (2) directors per Member and/or Associate Member provided that there are four or fewer Members;

(b) the size of the Board shall be increased through the addition of Associate Directors only for matters related to the Local Distribution System;

(c) when the Board acts on matters related to the Local Distribution System, provisions of this JPA Agreement related to quorum and voting shall be modified as provided herein to account for the additional Associate Members and/or associate directors.

(d) The VCEA Board together with the Associate Directors may adopt bylaws to effectuate or clarify quorum and voting for matters related to the Local Distribution system, as may be necessary or appropriate so long as such bylaws are consistent with this JPA Agreement.

4. Section 3.3 of the JPA Agreement related to the Powers and Functions of the Board is hereby amended to add sections 3.3.11 and 3.3.12 to read as follows:

3.3.11 Investigation of Acquisition of the Local Electrical Distribution System.

3.3.12 Subject to Section 2.3.1 above, acquisition and, thereafter, operation of the Local Electrical Distribution System.

5. Exhibit A of the JPA Agreement. Definitions, is hereby amended to add the following definitions:

“Associate Director” means a member of the Board of Directors representing an Associate Member agency on matters related to the Local Electrical Distribution system.

“Associate Member” means a signatory to this Agreement for the purposes set forth in section 2.3.1.

“Local Electrical Distribution System” or “Local Distribution System” means the local electrical distribution system in Yolo County and the cities that join VCEA as Associate Member agencies, together with all associated equipment and facilities.

“Publicly Owned Power Utility” or “POU” means an electrical power utility owned and operated by a public entity that owns the local distribution system and provides services and electrical power to the customers within its jurisdiction.

6. All other provisions of the JPA Agreement not expressly modified by this First Amendment shall remain in full force and effect.

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**IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS FIRST AMENDMENT AS OF THE DAY, MONTH AND YEAR FIRST WRITTEN ABOVE.**

CITY OF DAVIS

COUNTY OF YOLO

By: \_\_\_\_\_  
Brett Lee, Mayor

By: \_\_\_\_\_  
Don Saylor, Chair  
Board of Supervisors

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Zoe Mirabile, City Clerk

By: \_\_\_\_\_  
Julie Dachtler, Deputy Clerk (Seal)

APPROVED AS TO FORM:

APPROVED AS TO FORM:

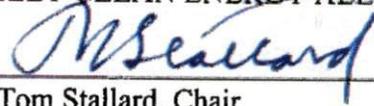
By: \_\_\_\_\_  
Inder Khalsa, City Attorney

By: \_\_\_\_\_  
Philip Pogledich, County Counsel

CITY OF WOODLAND

VALLEY CLEAN ENERGY ALLIANCE

By: \_\_\_\_\_  
Xóchitl Rodríguez, Mayor

By:   
Tom Stallard, Chair

ATTEST:

ATTEST:

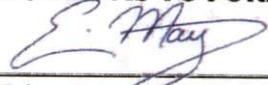
By: \_\_\_\_\_  
Ana Gonzalez, City Clerk

By:   
Alisa M. Lembke, Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Kara Ueda, City Attorney

By:   
Eric May, General Counsel

**ORDINANCE NO. 2019-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING THE WINTERS MUNICIPAL CODE TO ADD CHAPTER 13.20 TO BE ENTITLED COMMUNITY CHOICE AGGREGATION (ELECTRICITY) AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM**

BE IT ORDAINED by the City Council of the City of Winters as follows:

**SECTION 1. PURPOSE**

The purpose of this Ordinance is to authorize the implementation of a community choice aggregation program, otherwise known as community choice energy, through the Valley Clean Energy Alliance Joint Powers Authority, as required by California Public Utilities Code section 366.2(c)(12).

**SECTION 2. AMENDMENT OF THE MUNICIPAL CODE:** Chapter 13.20 is hereby added to the Municipal Code to read as follows:

**Chapter 13.20: Community Choice Aggregation (Electricity)**

**Article 13.20.01 : Authorization to Implement a Community Choice Aggregation Program.**

**Section 13.20.01.010. Authorization:** In order to provide businesses and residents within the City with a choice of power providers, the City hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating in the Community Choice Aggregation Program of the Valley Clean Energy Alliance, as described in its Joint Powers Agreement.

**SECTION 3. SEVERABILITY**

If any section, sub-section, sentence, clause, or phrase of this Ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid.

**SECTION 4. EFFECTIVE DATE**

This Ordinance shall take effect and be in force thirty (30) days following its adoption. Prior to expiration of fifteen (15) days after its passage of this Ordinance, it shall be published by title and summary only in a newspaper of general circulation together with the names of

members of the City Council voting for and against the same.

I HEREBY CERTIFY that the foregoing Ordinance was introduced before the City Council of the City of Winters at a duly called City Council meeting and, at a further regular Council meeting, the Council adopted this Ordinance on the \_\_th day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



**CITY COUNCIL  
STAFF REPORT**

**DATE:** October 15, 2019  
**TO:** Mayor and City Council  
**FROM:** John W. Donlevy, Jr., City Manager   
**SUBJECT:** Planning Applications Outside the City's Planning Area and those Requiring Annexation

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**RECOMMENDATION:**

That the City Council adopt Resolution 2019-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS REQUIRING CITY COUNCIL TO DETERMINE WHETHER TO INITIATE PROCESSING OF DEVELOPMENT APPLICATIONS FOR PROJECTS OUTSIDE OF THE CITY BOUNDARIES AND REQUIRING ANNEXATION

**BACKGROUND:**

At the August 20 City Council Meeting, the Council adopted Resolution 2019-35 which clarified Resolution 2001-05 in regards to development applications which included properties outside the City's planning area, urban limit line and sphere of influence. In the resolution, the City Council:

directed "that all applications for development or planning entitlements for any project located in whole or in part outside of the City's legal boundaries at the time of submission of such application, shall be brought before the City Council to consider whether the City should process the application for the requested entitlements. The applicant shall be required to submit a letter of intent to submit an application for the desired entitlements and a fee to be determined to cover the cost of the process set forth in this resolution. The City Council shall determine whether to (a) direct City staff to process an application in accordance with all

## Planning Applications Outside the City's Planning Area/Requiring Annexation

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applicable State law and City requirements and procedures; or (b) if the City Council does not direct staff to process the anticipated application as set forth in (a), should an application still be submitted, City staff would be directed to schedule the application for consideration of denial.

At the August 21 Planning Workshop and subsequently at the October 1, 2019 City Council Meeting, Staff was given direction that the City Council further wanted to clarify that this also include all planning applications which include annexation for properties both inside and outside the City's planning area, sphere of influence and urban limit line.

### **Discussion:**

Resolution 2019-43 has been written to further revise the intent, thus Resolution 2019-35 has been modified to include the following section:

The City Council hereby directs that all applications for development or planning entitlements for any project located in whole or in part outside of the City's legal boundaries at the time of submission of such application, shall be brought before the City Council to consider whether the City should process the application for the requested entitlements. The applicant shall be required to submit a letter of intent to submit an application for the desired entitlements and a fee to be determined to cover the cost of the process set forth in this resolution. The City Council shall determine whether to (a) direct City staff to process an application in accordance with all applicable State law and City requirements and procedures; or (b) if the City Council does not direct staff to process the anticipated application as set forth in (a), should an application still be submitted, City staff would be directed to schedule the application for consideration of denial.

The Resolution further clarifies that City Council approval is required for:

- All applications for development projects which are located outside of the City's general plan; and
- the City Council further wishes to require that projects locate outside of the existing City boundaries, which would necessarily require annexation of land to within the City boundaries and amendments to the City's Zoning Code as a minimum

**FISCAL IMPACT:** None by this action.

**RESOLUTION NO. 2019-43**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS  
REQUIRING CITY COUNCIL TO DETERMINE WHETHER TO  
INITIATE PROCESSING OF DEVELOPMENT APPLICATIONS FOR  
PROJECTS OUTSIDE OF THE CITY BOUNDARIES AND REQUIRING  
ANNEXATION**

**WHEREAS**, the City of Winters' General Plan is a legal document, required by state law, which serves as the community's "constitution" for development and use of land within the City's planning area; and

**WHEREAS**, the General Plan includes an "Urban Limit Line," as depicted in Figure 1-2 of the General Plan, and in the Land Use Map prepared for the General Plan, which Land Use Map is attached hereto as Exhibit "A"; and

**WHEREAS**, the Urban Limit Line delineates the area expected to be urbanized within the time frame of the General Plan and is designed to accommodate a population of 12,500 by the year 2010; and

**WHEREAS**, the City may have occasion to receive planning applications for development projects that are located wholly or partially outside of the Urban Limit Line as established by the General Plan; and

**WHEREAS**, the City may have occasion to receive planning applications for development projects which are located within the Urban Limit Line as established by the General Plan but requiring annexation; and

**WHEREAS**, any application for development outside of the Urban Limit Line would necessarily require a General Plan amendment, as such development would be outside the area contemplated for development in the City's General Plan; and

**WHEREAS**, on March 6, 2001, the City Council of the City of Winters adopted Resolution No. 2001-05, which declared that all applications for development projects which are located outside of the City's general plan area shall be brought before the City Council for consideration prior to acceptance for filing, and that the City Council shall be asked to determine whether (a) the application shall be processed or (b) the application shall be scheduled for denial; and

**WHEREAS**, the City Council on August 20, 2019, the City Council reaffirmed the intent of Resolution No. 2001-05 and clarified the scope of the Resolution to make clear that the City Council will consider whether to direct staff to process any application for planning or development entitlements for a project located in whole or in part outside of the Urban Limit Line prior to acceptance of the application for processing; and

**WHEREAS**, the City Council further wishes to require that projects locate outside of the existing City boundaries, which would necessarily require annexation of land to within the City boundaries and amendments to the City's Zoning Code as a minimum, shall be brought before

the City Council for consideration prior to acceptance for filing, and that the City Council shall be asked to determine whether (a) the application shall be processed or (b) the application shall be scheduled for denial; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS DOES HEREBY RESOLVE AND FIND AS FOLLOWS:**

**Section 1.** The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2.** The City Council hereby directs that all applications for development or planning entitlements for any project located in whole or in part outside of the City's legal boundaries at the time of submission of such application, shall be brought before the City Council to consider whether the City should process the application for the requested entitlements. The applicant shall be required to submit a letter of intent to submit an application for the desired entitlements and a fee to be determined to cover the cost of the process set forth in this resolution. The City Council shall determine whether to (a) direct City staff to process an application in accordance with all applicable State law and City requirements and procedures; or (b) if the City Council does not direct staff to process the anticipated application as set forth in (a), should an application still be submitted, City staff would be directed to schedule the application for consideration of denial.

**Section 3.** This resolution shall supersede and replace City Council Resolution No. 2019-35 in its entirety.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted by the City Council of the City of Winters at a regular meeting held on the 15th day of October, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Bill Biasi, Mayor  
City of Winters

**ATTEST:**

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Tracy S. Jensen, City Clerk

City of Winters