PORTERVILLE CITY COUNCIL AGENDA
ADJOURNED MEETING - OCTOBER 12, 2004
CITY HALL COUNCIL CHAMBERS
6:00 P.M.

Roll Call: City Council

WRITTEN COMMUNICATIONS

ORAL COMMUNICATIONS

CONSENT CALENDAR

1. Request for Street Closure
   Re: Approving closure of East Bellevue Street, between Main Street and Second Street, from 8:00 a.m. through 4:00 p.m. on Saturday, October 16, 2004 for Precision Brake & Wheel’s 50th Anniversary celebration.

SCHEDULED MATTER

2. Study Session -- Review and Consideration of Revisions to City’s Itinerant, Street, and Peddler Vending Regulations
   Re: Review of both the current regulations and an outline of the proposed changes.

3. Interpretation of Ambiguity - Mobile, Temporary and Permanent Structures
   Re: Review and discussion on proposed categorization of certain uses including catering trucks (traveling), catering trucks (stationary), seasonal food trailers (Hawaiian ice stands), temporary buildings (modular structures), produce (strawberry) stands, catering trailers (retractable wheel), shipping containers (sea trains), and semi-trailers.

CLOSED SESSION


ORAL COMMUNICATIONS

ADJOURNMENT - to October 19, 2004, 6:00 p.m.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
REQUEST FOR STREET CLOSURE

Alice Witt, owner of Precision Brake and Wheel, has requested an assemblies permit for October 16, 2004, in order to hold a 50th Anniversary Celebration for Precision Brake and Wheel. The celebration will be held at 22 E. Bellevue Street, Porterville, from 9:00 a.m. to 3:00 p.m. Mrs. Witt expects no more than 200 people at one time in attendance.

In conjunction with this activity, Mrs. Witt is also requesting that Council approve the closure of E. Bellevue Street, or at least one lane on each side between Second Street and Main Street, from 8:00 a.m. to 4:00 p.m. on October 16, due to the number of people attending the festivities and crossing the street, and to allow one hour before and one hour after the celebration for preparation and clean up.

The Police Chief has approved the Assemblies Permit, a copy of which is attached. Staff is recommending approval, with several conditions aimed at ensuring the safety of attendees while minimizing inconvenience to the motoring public.

This closure of E. Bellevie would begin at Main Street and extend east to the east edge of Precision Brake and Wheel's property line. This would not affect parking or use of private driveways belonging to homeowners on Second Street.

RECOMMENDATION: That the City Council approve the closure of E. Bellevue Street, beginning at Main Street and extending east to the east edge of the applicant's property line, on October 16, 2004, from 8:00 a.m. to 4:00 p.m.

ATTACHMENTS: Application for Assemblies Permit - Alice Witt

Item No. 1
Application for ASSEMBLIES or MEETINGS on public streets, sidewalks or parks, within the City of Porterville.

This application **MUST BE FILED WITHIN FOUR (4) DAYS PRIOR** to the date of the assembly or meeting.

A. **Precision Brake & Wheel**
   (Name/Address) 784-5180
   (Telephone)

B. 502 North Main & 22 E Belleview
   (Name & Address of Organization)
   (Telephone)
   **Patricia Witt**
   (Authorized Head of Organization)
   (Telephone) 784-5180

C. Name of Event Chairman

D. Purpose of event: 50th Business Anniversary
to honor our customers.

E. Date & Time of Event 9:00am to 3:00pm Sat. Oct 14th

F. Number of persons no over 200 at a time

G. Location of the assembly area of event 22 E Belleview

H. Security Guards required? [ ] yes [x] no If so, how many?

I. Plans for the assembly & dispersement of the event. Indicate times thereof, trade show and luncheon

J. Other information

I HEREBY AGREE TO ABIDE BY ALL PROVISIONS SET FORTH IN CITY ORDINANCE 927, SECTION 18-7.2 AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY OF PORTERVILLE.

Legal signature of applicant **Patricia Witt**

Date Oct 1, 2004 Telephone 784-5180

Application [x] Approved [ ] Denied [ ]

**Saul Rodriqun**

Chief of Police 10-4-2004 10/96
Conditions/Requirements for Street Closures/Block Parties

1. Requests for block parties/street closures shall be submitted at least five days prior to the date of the event. The request shall be made on an Application for Assemblies permit to the Police Department.

2. Organizers shall notify residents or business owners who reside adjacent to and/or are affected by the block party.

3. Organizers shall provide Type 3 barricades that must be properly placed to close the street and warn motorists of the block party in progress. These barricades may be rented from local vendors.

4. Consumption of alcohol by participants on the street is strictly prohibited.

5. A monitor/responsible person shall be designated to create an opening in the barricades in the event an emergency vehicle needs entry (police, fire, ambulance).

6. Coordinators/participants must clean the street of any/all debris/litter or trash, resulting from the block party. Trash shall not be left on the street for the street sweeper or other city crews to clean up.

7. Music shall not be played at such a high volume as to disturb the peace and good order of the surrounding neighborhoods.

Silver Rodriguez
Chief of Police
COUNCIL AGENDA: OCTOBER 12, 2004

SUBJECT: STUDY SESSION -- REVIEW AND CONSIDERATION OF REVISIONS TO CITY’S ITINERANT, STREET, AND PEDDLER VENDING REGULATIONS

SOURCE: CITY ATTORNEY

COMMENT: Pursuant to the City Attorney’s request, at the September 7, 2004 City Council Meeting, the Council set a Study Session to review the current regulations and discuss changes it may wish to make concerning both the form and the substance of the regulations. Currently, itinerant vendors, street vendors, peddlers, and solicitors are regulated by different areas of the municipal code. Some of the regulations appear in Chapter 15 under the City’s business license provisions, Chapter 8 covers commercial solicitations, the Zoning Ordinance covers certain types of stationary itinerant vending, and the Streets and Sidewalks provisions also applies to street vending under certain circumstances.

FORM OF REGULATIONS

An Outline containing the activities, the city’s current regulations, and some proposed modifications is attached. Furthermore, the City Attorney and staff recommend that the City Council consider adopting an all-inclusive ordinance 1) requiring a separate permit for all types of “itinerant” vending, to be defined to include stationary vending, street vending, and door-to-door vending, and 2) setting forth the specific conditions that should apply to these activities. These conditions can differ depending on the activity, but at least all of the regulatory information would be contained in the same area of the code. To the extent that these activities involves structures or uses that require zoning regulations (and related conditions), those regulations should remain in the Zoning Ordinance and can be cross-referenced. Currently, the activities are defined in Chapter 15. Any reorganization of or modification to these definitions that would result in a new or increased business license fee would require an election pursuant to Proposition 218. Therefore, the City Attorney recommends that changes to these provisions be minimized so that this will not occur. Furthermore, the regulations covering temporary structures should be considered in conjunction with these regulations, to the extent that the temporary structures are used for itinerant commercial activities.

Item No.2
SUBSTANCE OF REGULATIONS

The City Council has provided some direction thus far concerning door-to-door solicitations and other activities. However staff and the City Attorney are requesting that the Council review the regulations and provide direction concerning the current regulatory exceptions (e.g. caterers, those selling farm products from their own farms, etc.), the time limit for stationary itinerant vending (90 days), the 5 day rule for street vending and promotional events, etc.), and any other regulations it has concerns with.

ATTACHMENTS

Attached, for the Council's reference, is the Outline discussed above, excerpts of the City's current regulations, the draft new Chapter 8 (which can serve as the start of a template for a separate all-inclusive itinerant vending ordinance), a sample itinerant vending ordinance adopted by the City of Citrus Heights, the prior staff reports (7/6/04 and 9/7/04) concerning vendor regulations, and a sample aggressive solicitation ordinance.

RECOMMENDATION: That the Council review the materials presented and provide direction as requested for the development of a comprehensive regulatory ordinance.

ATTACHMENTS: 1) Outline
                             2) City Code Excerpts
                             3) Revised Chapter 8
                             4) Sample Ordinance (Citrus Heights)
                             5) July 6, 2004 and September 7, 2004 Staff Reports
                             6) Sample Aggressive Solicitation Ordinance
## OUTLINE OF VENDING ACTIVITIES TO BE REVIEWED

**CITY OF PORTERVILLE STUDY SESSION OCTOBER 12, 2004**

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>CURRENT REGULATIONS</th>
<th>PROPOSED MODIFICATIONS</th>
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<tr>
<td>PEDDLERS/SOLICITORS (&quot;DOOR TO DOOR&quot;)</td>
<td>City Code makes a distinction between the peddlers (immediate delivery of goods) and solicitors (future delivery of goods). Chapter 15 defines both (15-1(a), 15-1(r), and 15-1(y)) and regulates peddlers (15-8(c)). Chapter 8 requires a separate permit for and regulates solicitors.</td>
<td>Keep business license fees as they are. Regulate Peddlers in Chapter 8. Take out regulatory provisions in Chapter 15. Additional restrictions per revised language in Chapter 8 (attached). Consider putting into place an all-inclusive ordinance. (See sample ordinance.)</td>
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<td>ITINERANT VENDORS/MERCHANTS (STATIONARY)</td>
<td>Defined per 15-1(o) as a vendor that is stationary, is lawfully occupying a room, doorway, vacant lot, building, or other place, and intends to conduct business for a period of less than 90 days. Peddlers, commercial travelers and selling agents, and persons who sell fruit, vegetables, eggs, butter or other farm products of their own farm are exempt from this definition. Generally, a CUP is required under 2103 unless the vendor is stationary for 5 days or less under Chapter 15 covering promotional events.</td>
<td>Require a separate permit per revised Chapter 8. Consider whether the 90 day maximum is appropriate and enforcement issues. Consider clarifying current exceptions, and take regulatory provisions out of definitions section. Consider the duration at which site requirements should be required. Refine parking requirements per Section 2200(a).</td>
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<td>STREET VENDORS</td>
<td>[Also called “Push Cart” Vendors in the Code.] Section 15-1(ac) defines street vending as the sale of anything from a basket, box, receptacle, stand, wagon, motor vehicle, push cart, or other type of vehicle. Section 15-8(c) sets forth additional conditions imposed on street vendors (and peddlers). “Caterers” are exempt from this definition under Chapter 15. Section 2103 of the Zoning Ordinance provides that street vending from a fixed location, unless done in conjunction with a promotional event under Chapter 15 for 5 days or less, is a special use requiring a Conditional Use Permit. Such uses are prohibited on public property incl. streets in commercial zones, but are permitted on public property in residential zones. Section 20-1 prohibits obstructions on sidewalks and streets, except licensed street vendors and peddlers per Chapter 15, so long as they do not endanger travel. Section 20-1.2 requires prior approval via an encroachment agreement before anyone (e.g. business owners) can construct or set up appurtenant structures incl. display racks and tables in the public right of way. The State regulates street vending under the Vehicle Code, but permits local jurisdictions to enact additional restrictions.</td>
<td>Move the restrictions currently set forth in 15-8(c) to Chapter 8 (which will also regulate peddlers, solicitors, itinerant vendors). The additional suggested conditions in the revised Chapter 8 will also apply. The definitions for “street vending” and “itinerant vending” should be clarified because the definitions appear to overlap. Staff is also requesting direction concerning the appropriate limitations on these activities for the community. The “caterers” definition also needs clarification.</td>
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<td>TEMPORARY STRUCTURES</td>
<td>Section 7-3.3 of the Code empowers the city council to issue a permit “in time of stress or emergency” or in conjunction with development.</td>
<td>See 10/5/04 Community Development staff report, and coordinate with regulations applied to street/itinerant vending.</td>
</tr>
<tr>
<td>CIVIC EVENTS</td>
<td>15-20(e) allows temporary selling activities on streets, sidewalks and other city-owned property in connection with a community civic event sponsored by benevolent nonprofit organizations, incl. organized farmers markets, booths at street fairs, and push cart vendors operating during parades.</td>
<td>Ensure that any modifications to the activities described above are consistent with these requirements.</td>
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<td>AGGRESSIVE SOLICITATION (“PANHANDLING”)</td>
<td>Section 18-1 prohibits “soliciting alms” on any public street, alley, park or other public place in the city, as well as doorways, building and hall entrances, lots, or other places opening upon or adjoining streets and public places.</td>
<td>Because this form of solicitation has been deemed to be protected by the First Amendment (along with requests for donations, etc.), the city should consider deleting this provision, and if it wishes to regulate, consider adopting “aggressive solicitation” regulations.</td>
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ARTICLE I. BUILDING CODE

Sec. 7-1. Adoption of the 2001 Edition of the California Building Code.

That certain code in book form to which more particular reference is herein made, regulating the construction, erection, alteration, repair, removal, demolition, conversion, equipment, use, height, area and maintenance of buildings in the City of Porterville, together with the amendments thereof herein specifically set forth, together with the penalty for violation herein set forth to be known as the Building Code compiled by and adopted by the International Conference of Building Officials, together with the following appendix Chapters 3 Division II, 3A Division I & II, 4 Division II, 15, 31 Division II & III, and 33 thereto, is hereby adopted and enacted by the Council of the City of Porterville, to all intents and purposes and to the same effect as if each and every sentence, paragraph, word and clause in said code mentioned are referred to herein or therein were fully and specifically set forth herein, with the exception of the penalty provision thereof. (Ord. No. 1066, § A, 12-3-74; Ord. No. 1148, § A, 7-18-78; Ord. No. 1212, § A, 8-5-80; Ord. No. 1295, § A, 2-7-84; Ord. No. 1371, § A, 1-6-87; Ord. No. 1422, § A, 11-21-89; Ord. No. 1521, § A, 11-21-95; Ord. No. 1575, § A, 5-18-99; Ord. No. 1616, § A, 10-1-02)

Sec. 7-2. Copies of building code filed in city clerk's office.

Reference is hereby made to one (1) copy of said California Building Code, 2001 Edition compiled by and adopted by the International Conference of Building Officials, heretofore filed in the office of the Building Official of Porterville and said California Building Code is by reference adopted herein as provided by law. (Ord. No. 1066, § A, 12-3-74; Ord. No. 1148, § A, 7-18-78; Ord. No. 1212, § A, 8-5-80; Ord. No. 1295, § A, 2-7-84; Ord. No. 1371, § A, 1-6-87; Ord. No. 1422, § A, 11-21-89; Ord. No. 1521, § A, 11-21-95; Ord. No. 1575, § B, 5-18-99; Ord. No. 1616, § A, 10-1-02)

Sec. 7-3. Reserved.
Editor's note—Section 7-3, has been deleted by the editors inasmuch as it amended the 1994 Uniform Building Code.

Sec. 7-3.1. Reserved.
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Sec. 7-3.1.1. Reserved.
Editor's note—Section 7-3.1.1 has been deleted by the editors inasmuch as it amended the 1979 Uniform Building Code. Former section 7-3.1.1 was derived from Ord. No. 1265, § A, 11-21-95)

Sec. 7-3.2. Same—Permit fees.

Building permit fees shall be fixed by resolution of the city council. (Ord. No. 1066, § A, 12-3-74; Ord. No. 1148, § A, 7-18-78; Ord. No. 1212, § A, 8-5-80; Ord. No. 1295, § A, 2-7-84; Ord. No. 1371, § A, 1-6-87; Ord. No. 1422, § A, 11-21-89; Ord. No. 1521, § A, 11-21-95; Ord. No. 1575, § A, 5-18-99; Ord. No. 1616, § A, 10-1-02)

Sec. 7-3.3. Temporary structures.

(1) For purposes of this article the word “structure” shall include any building, tent, canopy, or any other type of construction approved by the city council.

(2) Upon written application to the city council, the city council is hereby empowered to issue a permit enabling an applicant in time of stress or emergency or in conjunction with development of residential, commercial, or industrial projects, to erect, construct, maintain and utilize a temporary structure within the City of Porterville.

(3) Said permit so issued shall provide the type of construction to be permitted; the location of said structure; the size of said structure; the period of time that said structure may be utilized; and provisions that said structure shall be demolished at the termination of said permit and all other requirements and conditions deemed necessary or expedient by the city council.
(4) In the event the applicant fails to satisfy all conditions set forth by the city council in the permit, the right to construct, maintain and utilize the temporary structure may be terminated immediately by action of the city council; and, in addition thereto, a violation of the conditions of said permit is hereby declared to be unlawful.

(5) Nothing herein shall permit an applicant to make use of any structure in violation of any zoning law, ordinance or regulation of the city. (Ord. No. 1066, § A, 12-3-74; Ord. No. 1148, § A, 7-18-78; Ord. No. 1212, § A, 8-5-80; Ord. No. 1295, § A, 2-7-84; Ord. No. 1371, § A, 1-6-87; Ord. No. 1422, § A, 11-21-89; Ord. No. 1476, § 1, 7-21-92)

Sec. 7-3.5. Building official.
The Public Works Director of the City, or his designee, shall have all the power and authority of and shall be charged with the performance of all duties and functions of a building official who administers and enforces all City Codes related to building, plumbing, electrical, mechanical, swimming pool and solar energy construction work. (Ord. No. 1537, § B22, 8-6-96)(Ord. No. 1614, § 3, 9-17-02)

Editor's note—Section 7-3.5 was repealed by § A of Ord. No. 1537, adopted Aug. 6, 1996, § B22 of which enacted a new § 7-3.5 to read as set out herein. The repealed provisions pertained to similar subject matter and derived from Ord. No. 1247, § A, Nov. 3, 1981.

Sec. 7-3.4. Penalty for violation.
It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, move, improve, remove, convert, or equip, use, occupy or maintain any building or structure in the City of Porterville, or cause the same to be done contrary to or in violation of the provisions of this article or of the building code above adopted by reference, together with the amendments thereto; and any person, firm or corporation violating any of the provisions of this article or of said building code, as amended, shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violations of the provisions of this article or of the California Uniform Building Code is committed or permitted; and upon conviction of any such violation, such person shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment in the city or county jail for a period of not exceeding six (6) months or by both such fine and imprisonment. (Ord. No. 1066, § A, 12-3-74; Ord. No. 1148, § A, 7-18-78; Ord. No. 1212, § A, 8-5-80; Ord. No. 1295, § A, 2-7-84; Ord. No. 1371, § A, 1-6-87; Ord. No. 1422, § A, 11-21-89; Ord. No. 1616, § A, 10-1-02)
(26) **Severability.** If any portion of this subsection is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this subsection. The city council hereby declares that it would have adopted this subsection and each portion thereof, irrespective of the fact that any one (1) or more sections, subsections or portion be declared invalid or unconstitutional.

(e) **Community civic events.**

(1) The city council may authorize, upon receipt of application, issuance of a permit for temporary selling activities and advertising relating thereto, on sidewalks, parkways, roadways and other city-owned property, in connection with a community civic event sponsored and conducted by a nonprofit organization formed for charitable, educational, civic, veteran, philanthropic or other benevolent purposes, under the following conditions.

(2) **Community civic event** shall mean the sponsoring and conducting by a nonprofit organization of a civic, artistic, cultural, charitable, educational, veteran or benevolent activity of community interest. The council shall require reasonable proof of the nonprofit status of the sponsoring organization and sufficient showing of community interest.

(3) **Application and fee.** The nonprofit sponsor of the community civic event shall be exempt from a license fee. The finance director shall be the issuing authority for said permit after approval of the city council, and as said authority shall develop such procedures, forms, etc., necessary to carry out the purposes of this subsection for submittal of application to the council.

(4) Said permit shall be valid for a period not to exceed four (4) consecutive days, one of which shall be a Saturday, Sunday or national holiday.

(5) Each application for a permit must be presented to the council not less than thirty (30) nor more than one hundred eighty (180) days before the commencement date of the proposed permit activities; provided that the council may waive these time requirements if it determines such waiver to be in the public interest.

(6) No person or sponsoring organization shall fail to keep the permit, at all times, at the place where the selling activities are being conducted, nor fail upon demand therefor to exhibit such permit to any public officer.

(7) The application for such permit shall contain:

a. The name of the applicant, the sponsoring organization, the event chairman, and the addresses and telephone numbers of each.

b. The location and outside perimeter of the selling area, indicated upon a map of the area.

c. The date and times at which the selling activities are to take place.

d. A description of the selling activity which will be conducted.

e. A list of all persons who will be engaging in temporary selling activities at any time during the dates and times for which a temporary selling permit is granted shall be furnished no later than one (1) week before the event is to take place.
(8) The council shall cause such application to be investigated and shall grant the permit if it determines that the proposed activities will not disrupt to an unreasonable extent the movement of vehicular or pedestrian traffic or create a hazard to the public; that the proposed activities are not of a size or nature that require the diversion of so great a number of police personnel to regulate such activities that it prevents reasonable police protection for the City; that the concentration of persons, equipment and materials is not so great in the selling area that it would prevent proper fire, police and ambulance protection; and that the permit applicant agrees to be responsible for cleanup necessitated by the proposed activities; and the council may, in its discretion, require a cleanup deposit to guarantee that cleanup takes place.

(9) The council shall further condition the granting of such permit upon the applicant's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the City and its officers and employees against all claims arising out of or in connection with the issuance of the permit or the operation of the permittee, his agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars ($1,000,000.00) per occurrence of bodily injury and property damage, combined single limit.

(10) The council shall condition the granting of permits upon compliance with the provisions of this subsection and also with such other conditions as the council may deem necessary to impose or the proper protection of persons and property.

(11) The sponsoring organization may impose a reasonable charge or exhibit fee on each participating seller or exhibitor and shall be responsible for enforcing all requirements of this subsection and regulations imposed by the sponsoring organization. Any net profit received by the sponsoring organization shall be utilized for the civic, artistic, cultural, charitable, educational, veteran or benevolent activities of the organization within the City of Porterville.

(12) Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar ($1.00) per day for amusement, entertainment, exhibit, ride, or per booth, space, stall, stand or other unenclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm, concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection.

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the event. Said remittance shall be accompanied by consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California Sellers Permit number. Said receipts shall be furnished by the city. One (1) copy of the receipt shall be furnished to the licensee, one (1) copy filed with the finance department of the city, and one (1)
copy retained by the event sponsor for a period of three (3) years for audit purposes.

(f) Fortunetelling.

(1) Purposes and findings.

a. The practice of fortunetelling, as defined in this section, has historically been subject to abuse by certain unscrupulous practitioners using the practice to commit fraud and larceny upon clients.

b. It is the purpose of this section to regulate the practice of fortunetelling in such a manner as to reduce the risk of fraud and larceny to clients while allowing fortunetellers to provide their services to clients with only minimal restrictions.

c. The provisions of this section requiring a permit, posting of fees, providing receipts and allowing client recordation of the consultation, will make it more difficult for an unscrupulous fortuneteller to commit fraud or larceny, and yet, as informational regulations, will not affect the nature of the information conveyed by the fortuneteller nor the manner in which it is conveyed. These regulations require only minimal expense and effort on the part of the fortuneteller and will not, therefore, impose any undue burden on their practices.

d. Fortunetelling for entertainment purposes, as defined in this section, does not create the same risk of fraud and larceny by an unscrupulous practitioner as would the practice with an individual client because it is done with a group at a public place for the purpose of entertaining and not to deal with the private concerns of an individual.

e. For these and other reasons; the provisions of this section are necessary to protect the health, safety and welfare of the community.

(2) Permit required. No person shall conduct, engage in, carry on, participate in, or practice fortunetelling or cause the same to be done for pay without having first obtained a permit therefor.

(3) Definitions. As used in this Code [subsection]:

a. "Fortunetelling" shall mean and include telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, including, but not limited to, clairvoyance, clairaudience, cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, divination, soothsaying, mantic, necromancy, mind-reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature.

b. "For pay" shall mean for a fee, reward, donation, loan or receipt of anything of value.

(4) Permit application. Every natural person who, for pay, conducts, engages in, carries on, or practices fortunetelling shall file a separate verified application or a permit with the business license officer. The application shall contain:

a. The name, home and business address, and home and business telephone number of the applicant.

b. The record of conviction for violations of the law, excluding minor traffic violations.

c. The fingerprints of the applicant on a form provided by the police department.
d. The address, city and state, and the approximate dates where and when the applicant practiced a similar business, either alone or in conjunction with others.
e. A nonrefundable application fee in an amount of one hundred dollars ($100.00) to cover cost incurred by the city in staff time, and other expenses involved in investigation and processing of permit.

(5) Investigation. Upon the filing of the application, it shall be referred to the police department for investigation, report and recommendation. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report and recommendation made in writing to the business license officer within twenty-one (21) days after the filing of the application, unless the applicant requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth therein.

(6) Hearing and decision by business license officer. The business license officer shall consider the application and the police department report and recommendation at a hearing held not less than seven (7) nor more than fourteen (14) days following receipt of the police department report described in subsection (5). Notice of the time and place of the hearing and a copy of the police department report shall be given to the applicant personally or by certified mail by the business license officer at least five (5) days prior to the hearing. Any interested parties shall be heard at the hearing. City shall have the burden of proof to show the permit should be denied. The decision of the business license officer to approve, deny or conditionally approve the permit shall be in writing, and if adverse to the applicant, shall contain findings of fact and a determination of the issues presented. Unless the applicant agrees in writing to an extension of time, the business license officer shall make his or her decision approving, denying, or conditionally approving the permit within twenty-four (24) hours after completion of the hearing on the application for a permit and shall notify the applicant of his or her action by personal service or certified mail.

(7) Approval of permit. The business license officer shall approve or conditionally approve the permit if he or she makes all of the following findings:

a. All the information contained in the application and supporting data is true;
b. The applicant has not, within one (1) year from the date of the application, been convicted of any violation of this Section or crimes involving prediction of future events by the occult arts, larceny, perjury, bribery, extortion, fraud, or crimes involving moral turpitude;
c. The applicant has paid the required business license fee; and
d. The applicant agrees to abide by and comply with all conditions of the permit and applicable laws.

(8) Term of permit. The term of the permit and the term of the business license shall be for one (1) year from the date of issuance. A renewal application shall be filed no later than thirty (30) days prior to the expiration of the permit and shall be processed in the same manner as a new application.
(600) linear feet of the nearest property line of any school (public or private, approved pursuant to the provisions of article 29 of the zoning ordinance), public park and/or playground, or legally established church (approved pursuant to the provisions articles 21 and 29 of the zoning ordinance) without first having obtained approval of a conditional use permit.

Any duly licensed off-sale liquor establishment in operation on February 1, 1991, shall be subject to the provisions of article 25 of this ordinance.  
(Ord. No. 1450, § 1, 1-2-91)

Section 2101. Effect of permit requirement.
A. No use listed in section 2103 shall be permitted in any zone in the city without such review and such permit, unless in a zone where such use is specifically permitted by this ordinance.

B. Any use listed in section 2103 after the same has been reviewed and a conditional use permit therefore [therefor] has been issued in the manner herein mentioned may be permitted in any zone in the city specified in such permit unless otherwise provided in this article.

C. The requirements relating to yards, height, area and off-street parking applicable to the particular zone in which any conditional use is proposed to be located shall prevail, subject to any additional requirement imposed as a condition to the permit, including a time limit.

D. In the case of public utility transmission towers and lines, the same shall be permitted in any zone in the city without the necessity of a permit; provided that at least sixty (60) days prior to acquisition of title to land or rights-of-way therefore [therefor], the city council shall be advised in writing of the proposed route and location thereof by the public utility company.  
(Ord. No. 1363, § 28, 8-19-86)

Section 2102. Review: Factors to be considered.
A. The purpose of the review shall be to establish that the special use will be compatible with the uses permitted in the surrounding area and to specify conditions for design, installation and subsequent operation as may be reasonably required to make and keep said special uses compatible and carry out the purpose of this ordinance in general.

B. Factors to be considered in said review shall be the effect of the special use upon existing and potential uses in the general vicinity from the standpoint of public safety, health and welfare, including:

(1) Damage or nuisance from smoke, odor, gas, dust, litter, vibration, noise, electrical disturbance, radiation, heat, glare or other similar causes.

(2) Hazard from explosion, contamination, electricity or fire.

(3) Hazards or noise arising from unusual congregation or volume of traffic, persons or vehicles.

C. The city council may deny any application if it cannot find that the public health, safety and general welfare are not adequately protected as set out in paragraph B, above.  
(Ord. No. 1363, § 29, 8-19-86)

Section 2103. Uses included.
A. The special uses referred to in this article are as follows:

(1) Airports, heliports.

(2) Cemeteries.

(3) Churches (not permitted in a C-1 Zone).

(4) Columbariums, crematories or mausoleums; provided that none of the foregoing shall be permitted in any Zone, unless within a cemetery.

(5) Fire or police stations; court and government office buildings.
(6) Golf courses or driving ranges.

(7) Play areas, playgrounds and public parks.

(8) Public utility facilities, including but not confined to communications equipment buildings, water wells, substations, and excluding public utility pole lines, pipes, conduits, distribution mains and domestic water wells. (With reference to transmission towers and lines, see section 2101 D.)

(9) Radio or television transmitters and receivers.

(10) Refuse dumps and disposals.

(11) Mental hospitals (provided such use shall not be permitted in any R Zone).

(12) Railroads.

(13) Condominiums: Condominiums or similar developments, either new structures or the conversion of existing structures originally built for sale or lease, shall be allowed in any district upon securing approval of a conditional use permit as provided in this article, and further provided that:

(a) Regulations governing use, density, building height, required yards, building separations, signs and off-street parking, and other explicit regulations, where applicable, shall be those of the zoning district within which the development site is located.

(b) Residential condominiums shall be classified as follows:

(i) Horizontal: One in which single-family dwelling units are constructed either as separate structures or as self-contained units within a common structure having individual entrances and utility connections, no opening in any wall common to two (2) or more units, and no part of any other unit.

(ii) Vertical: Any duplex, triplex or apartment house, as defined in the Uniform Building Code, in which any part of any dwelling unit is on top of any part of any other dwelling unit.

(c) Maximum allowable density in any residential condominium in any single-family district shall be:

(i) R-A Districts: One (1) unit for every twenty thousand (20,000) square feet of gross lot area.

(ii) R-E District: One (1) unit for every twelve thousand hundred (12,500) square feet of gross lot area.

(iii) R-1-8 District: One (1) unit for every eight thousand (8,000) square feet of gross lot area.

(iv) R-1 District: One (1) unit for every six thousand (6,000) square feet of gross lot area.

(v) Maximum allowable density in any residential condominium in the R-2 District shall be one (1) unit for every three thousand (3,000) square feet of gross lot area.

(vi) Maximum allowable density in any residential condominiums in the R-3 District shall be one (1) unit for every fifteen hundred (1,500) square feet of gross lot area.

(vii) Maximum allowable density in any residential condominiums in the R-4 District shall be one (1) unit for every one thousand (1,000) square feet of gross lot area.
(viii) "Gross lot area" as used in this section shall mean the total area of the development site, including all area held in common, and private streets and roads, but not publicly owned property.

(d) In all residential condominiums, the outdoor common area, exclusive of all structures, shall contain an area having a slope of not more than ten (10) percent, and a minimum area per unit as follows:

(i) For horizontal condominiums: One thousand (1,000) square feet per unit, not including parking areas.

(ii) For vertical condominiums:

a. Where structures average two (2) stories or less: Five hundred (500) square feet per unit, not including parking areas.

b. Where structures average more than two (2) stories: Four hundred (400) square feet per unit, not including parking areas.

(iii) The requirements of this section may be met in whole or in part by any equivalent open ground area which is a part of the fee to any individual condominium.

a. In any condominium in which residential uses are proposed in any R District, the main structures shall be separated from any other main structures on the same lot by a distance of not less than one-half (½) of the sum of the heights of the two (2) buildings, and in no case less than twenty (20) feet.

b. The side yard setback of any residential main structure on any condominium lot on a public street shall be five (5) feet if the distance between the front lot boundary and the rear lot boundary is over one hundred (100) feet or less, and ten (10) feet if the distance between the front lot boundary line and the rear lot boundary line is over one hundred (100) feet.

c. Application for a conditional use permit shall be accompanied by:

1. Map, to a workable scale, showing the site in relation to surrounding property, existing roads and other existing improvements.

2. Site plan, showing proposed improvements, location of buildings on the ground, orientation of building, utilities, public services, public facilities, streets and alleys, landscaping and the boundaries of the project.

3. Drawings showing how airspace is to be divided within the condominium, if applicable.

4. Copy of the tentative subdivision map.

5. Floor plans and elevation of all proposed buildings and structures.

6. Any information deemed necessary or desirable in assisting the City Council in its determination on the use permit and the conditions thereof.

7. A copy of the declaration of restrictions, and proposed management agreement, relating to the project as required by section 1355 of the Civil Code.
d. It is the express intent of the City of Porterville to apply the foregoing regulations to condominiums, community apartments and similar type developments, whether cluster, town house or vertical design, because the permanent ownership or interest in individual dwelling units, or the airspace thereby, renders these developments essentially different in nature from developments or buildings in which dwelling units are rented or leased.

(14) *Deleted.* (Ord. 1627, § 2, 1-7-03)

15) **Street Vendors:** No vendor shall stop, stand, or park, for the purpose of vending or exhibiting merchandise, at or on any publicly-owned or Redevelopment Agency-owned property in any C-1, C-2, C-3, C-H, M-1, or O-A zone district. No vendor shall stop, stand, or park, for the purpose of vending or exhibiting merchandise, at or on any privately-owned property in any C-1, C-2, C-3, C-H, M-1, or O-A zone district without first securing a conditional use permit as provided in this article. Promotional events occurring on private property for businesses licensed under Chapter 15 of the City Code shall be exempt from obtaining a conditional use permit so long as the event is limited to not more than any five (5) calendar days within any 30 calendar day period. This requirement to secure a conditional use permit on private property shall not apply to caterers licensed under Chapter 15, Section 15-23, Gross Receipts, Classification (B), of the City Code.

(Ord. No. 1290, 11-15-83; Ord. No. 1363, § 30, 8-19-86; Ord. No. 1385, § 5, 8-18-87; Ord. No. 1532, § 1, 6-18-96; Ord. No. 1539, § 1, 8-20-96; Ord. No. 1554, § 6, 2-17-98)

**Section 2104. Procedure.**

A. The procedure for application for such permits, and the review and issuance thereof, shall be as provided in article thirty unless otherwise mentioned herein.

B. Such permits may be revoked or modified in the manner and under the conditions set forth in article thirty-one herein.

**Section 2105. Application to other uses.**

Other uses not mentioned herein may be required by other parts of this ordinance to be subject to issuance of such permits; and such shall be subject to review, specifications of conditions, and issuance, modification and revocation of conditional use permits in the manner set out in this article, and articles twenty-nine and thirty-one.
ARTICLE TWENTY-TWO. OFF-STREET PARKING

Section 2200. General requirements and exceptions.
A. No land shall be used for the parking of vehicles until the proposed plan of the parking space or area has been submitted and a permit issued therefore in the same manner as specified for required parking spaces in section 2207; and all land used for the parking of vehicles shall be designed, improved and maintained as mentioned in section 2206.

B. Exceptions. Parking spaces or areas used exclusively by the occupants of dwellings, their guests and employees, but not including multiple-family dwellings, boarding and lodging houses, fraternities and sororities, where located in the same lot or building site, are excepted from the requirements of improvement and maintenance mentioned in section 2206; and where such parking space is also a nonconforming use, it shall be excepted from the requirements of plan and permit as mentioned in section 2207.

C. Parking spaces or areas which are nonconforming, other than those mentioned in the preceding paragraph B., shall, within three (3) years after the time this ordinance is effective, be improved and maintained as mentioned in section 2206.

Section 2201. Minimum parking space; general.
A. Every building hereafter erected, reconstructed or structurally altered shall be provided with the minimum parking space and facilities as required by the provisions of this article; and such parking space shall be continuously available and maintained with access suitable for vehicles to and from a public street or alley. Subsequent changes of use of such buildings shall not excuse compliance with minimum parking requirements provided herein. Such minimum parking space and facilities shall be and remain under the same ownership as the land on which such the building is situated.

B. The provisions of this article shall not be construed to require the provision of additional parking space or facilities in the case of reconstruction or structural alteration of any of the following buildings, provided such building was in existence at the time this ordinance was adopted, or during the one-year period immediately prior thereto:

(1) In a C or M Zone, provided such reconstruction or alteration does not add more than five hundred (500) square feet of usable floor space to the building in the aggregate.

(2) In cases of churches, provided no addition is made to the auditorium seating capacity.

(3) Any reconstruction permitted under this provision must be completed within one (1) year following the removal of such existing building, or within six (6) months after the adoption of this ordinance, whichever is the latter.

Section 2202. Number of spaces required.
A. The number of off-street parking spaces required for different uses shall be not less than as follows:
<table>
<thead>
<tr>
<th>Use</th>
<th>Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Business and professional offices</td>
<td>One (1) for each two hundred (200) square feet of gross floor area for medical-dental offices (healing arts), banks, savings and loans, credit unions, and other similar financial institutions (medical-dental offices shall have a minimum of five (5) spaces). Other business and professional offices shall have one (1) parking space per three hundred (300) square feet of gross floor area with a minimum of three (3) spaces.</td>
</tr>
<tr>
<td>(2) Bowling lanes.</td>
<td>Five (5) for each lane.</td>
</tr>
<tr>
<td>(3) Churches.</td>
<td>One (1) for each five (5) seats (in the main auditorium only).</td>
</tr>
<tr>
<td>(4) Dance halls and cabarets.</td>
<td>One (1) for each four (4) seats, but in any case not less than one (1) for each fifty (50) square feet used for dancing.</td>
</tr>
<tr>
<td>(5) Single-family dwellings, any district, including owner-occupied residential planned unit development, condominiums, mobilehomes, or trailers.</td>
<td>Two (2) spaces for each dwelling unit in an enclosed garage or appropriate carport, as provided herein.</td>
</tr>
<tr>
<td>(6) Duplex.</td>
<td>Same as No. (7) below.</td>
</tr>
<tr>
<td>(7) Apartment houses, R-3 District.</td>
<td>One (1) covered space, plus one-half open space for each dwelling unit in any apartment.</td>
</tr>
<tr>
<td>(8) Apartment houses, R-4 District.</td>
<td>One (1) covered space plus one-half open space for each dwelling unit in any apartment.</td>
</tr>
<tr>
<td>(9) Furniture and appliance store.</td>
<td>One (1) for each six hundred (600) square feet of gross floor area.</td>
</tr>
<tr>
<td>(10) Hotels.</td>
<td>One (1) for each sleeping or living unit.</td>
</tr>
<tr>
<td>(11) Rooming and boarding houses, rest homes, independent living retirement facilities and assisted living retirement/residential care facilities.</td>
<td>One (1) for each two beds.</td>
</tr>
<tr>
<td>(12) Hospitals.</td>
<td>One (1) for each bed.</td>
</tr>
<tr>
<td>(13) Convalescent hospitals and sanitariums.</td>
<td>One (1) for each two (2) beds.</td>
</tr>
</tbody>
</table>

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Chapter 8

CANVASSERS AND SOLICITORS

Cross reference—As to license fees for solicitors, see §§ 15-105 to 15-107 of this Code.
Sec. 8-1. Defined.
A canvasser or solicitor is defined as any individual or person not having an established place of business in the city who, for himself or as agent for another, travels either by foot, wagon, automobile, motor truck or any other type of conveyance or goes from place to place or from house to house or from street to street taking or attempting to take, canvassing or soliciting orders or subscriptions for, or selling or disposing of newspapers, magazines, periodicals, books, publications or takes orders for the sale of the same or takes orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided, that such definition shall also include any person who for himself or for another person, hires, leases, uses or occupies any building, structure, tent, hotel room, lodginghouse, apartment, shop or other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. (Ord. No. 672, § 1)

Sec. 8-2. Permit—Required.
It shall be unlawful for any canvasser, solicitor or other person as defined in section 8-1 to engage in such business or to go from place to place or from house to house or from street to street for the purpose of procuring subscriptions for, taking orders for, or selling any newspapers, magazines, periodicals, books, publications or taking or attempting to take orders for the sale of goods, wares, merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future within the city without first obtaining a permit therefor in compliance with the provisions of this chapter. (Ord. No. 672, § 2)

Sec. 8-3. Same—Application; contents; photograph; fingerprinting.
Applicants for a canvasser’s or solicitor’s permit under this chapter must first file with the city clerk a sworn application in writing, in duplicate, on a form to be furnished by the city clerk which shall give the following information:

(a) Name and description of the applicant.

(b) Permanent home address and full local address of the applicant.

(c) A brief description of the nature of the business and the goods to be sold.

(d) If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(e) The length of time for which the right to do business is desired.

(f) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed, and the proposed method of delivery.

(g) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(h) The fingerprints of the applicant and the names of at least two (2) reliable property owners of the county who will certify as to the applicant’s good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

(i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor,
or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor. (Ord. No. 672, § 3)

Sec. 8-4. Same—Fee.
At the time of filing the application, a fee as fixed by resolution of the city council shall be paid to the city clerk to cover the cost of investigation of the facts therein stated. (Ord. No. 672, § 3; Ord. No. 1046, § A, 9-18-73)

Sec. 8-5. Same—Investigation.
(a) Upon receipt of such application, the original shall be referred to the chief of police, who shall cause such investigation of the applicant’s business and moral character to be made as he deems necessary for the protection of the public good.

(b) The chief of police shall have a period of thirty (30) days within which to make his investigation and report. (Ord. No. 672, § 4; Ord. No. 1277, 2-15-83)

Sec. 8-6. Same—Denial.
If as a result of the investigation required in section 8-5, the applicant’s character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return such application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit will be issued. (Ord. No. 672, § 4)

Sec. 8-7. Same—Issuance; contents; records; duration.
If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit, along with the application to the city clerk, who shall deliver to the applicant his permit. Such permit shall contain the signature and seal of the issuing officer and show the name, address and photograph of such solicitor or canvasser and the kind of goods to be sold thereunder, the date of issuance and the length of time the same shall be operating, as well as the permit number and other identifying description of any vehicle used in such soliciting or canvassing. The clerk shall keep a permanent record of all permits issued. No permit shall be issued for a longer period of time than one (1) year from the date of issuance. (Ord. No. 672, § 4)

Sec. 8-8. Same—Exhibition upon request.
Solicitors and canvassers are required to exhibit their permit at the request of any citizen. (Ord. No. 672, § 5)

Sec. 8-9. Same—Revocation—Notice; hearing.
Any permit issued under the provisions of this chapter may be revoked by the city clerk or chief of police after notice and hearing for any of the following causes:

(a) Fraud, misrepresentation or false statement contained in the application for license.

(b) Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor or as canvasser.

(c) Any violation of this chapter.

(d) Conviction of any crime or misdemeanor involving moral turpitude.

(e) Conducting the business of soliciting, or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (Ord. No. 672, § 8)

Sec. 8-10. Same—Same—Manner of serving notice.
Notice of the hearing for revocation of a permit
shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five (5) days prior to the date set for hearing. (Ord. No. 672, § 8)

Sec. 8-11. Same—Right of appeal on denial or revocation.

Any person aggrieved by action by the chief of police or the city clerk in the denial of a permit as provided in section 8-6 or a revocation of any permit issued, shall have the right of appeal to the city council. Such appeal shall be taken by filing with the council within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for hearing on such appeal and notice of such hearing shall be given by mailing notice of the time and place for hearing the appeal postage prepaid to the applicant or permittee at his last known address at least five (5) days prior to the date set for hearing. The decision and order of the council on such appeal shall be final and conclusive. (Ord. No. 672, § 9)

Sec. 8-12. Enforcement of chapter generally.

It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing and who is not known by such officer to possess a valid unrevoked permit, to produce his solicitor's or canvasser's permit and to enforce the provisions of this chapter against any person found to be violating the same.

The chief of police shall report to the city clerk all convictions for violation of this chapter and the city clerk shall maintain a record of each permit issued and record the reports of violation therein. (Ord. No. 672, §§ 6, 7)
ARTICLE I. GENERAL PROVISIONS

Sec. 15-1. Definitions.
For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) **Advertising solicitor** shall mean and include any person who goes from place to place within the city selling or offering to sell advertising service using any advertising method.

(b) **Amusements, amusement rides** shall mean and include one (1) or more merry-go-rounds, exhibitions, flying horses, Ferris wheels, or other similar devices.

(c) **Arcade** shall mean a commercial establishment containing any combination of five (5) or more apparatuses, devices and/or machines operated by payment of fees and where the apparatuses, devices and/or machines make possible a game or contest.

(d) **Auction sales** shall mean and include all sales by auction of personal and/or real property.

(e) **Business** shall mean and include professions, trades and occupations, and all and every kind of calling whether or not carried on for profit.

(f) **Card room** shall mean and include any room in which there are card tables used, kept or intended for use in the playing of any kind of legal card game where the same is conducted as a business or in connection with a business.

(g) **Carnival** shall mean and include a group of two (2) or more shows, entertainments, games, devices, mechanical rides, amusements, vaudeville or dramatic or minstrel performance, or games, tricks, devices or wheels, the result of the operation of which is dependent upon chance or skill, and as a result of the operation of which things or representatives of value are given or paid. The charging of a single admission fee to a carnival shall not limit the provisions of this chapter.

(h) **City** shall mean the City of Porterville, Tulare County, State of California.

(i) **Collector** shall mean the director of finance of the city and duly authorized assistants and/or deputies of the director.

(j) **Contractors**, for the purpose of this section, the term “contractor” shall mean and include those trades licensed by the state contractors’ licensing board.

(k) **Fixed place of business or established business** within the city shall mean and include a permanent store, office or place where business is legally and regularly transacted from month to month in such manner as business of that nature is generally or customarily carried on and conducted and when the circumstances show an intention to become an established, fixed and continuous part of the regular and legitimate business life of the city. In questionable cases such facts must be shown by the exhibition of a bona fide lease or rental agreement to the premises where such business is to be conducted, such lease or rental agreement to be for a minimum period of not less than ninety (90) days.

(l) Going-out-of-business sale is a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following types of sales: adjusters; adjustment; alteration; assignees; bankrupt; benefit of administrator; benefit of creditors; benefit of trustees; building coming down; closing; creditors commit-tee; creditors; end; executors; final days; forced out; forced out of business; insolvent; last days; lease expires; liquidation; loss of lease; mortgage sale; receivers; trustees; quitting business; going out of business.

(m) **Goods** is meant to include any goods, wares, merchandise or other personal property capable of being the objects of a sale regulated hereunder.
(n) \textit{Gross receipts} shall include the total amount of the sale price of all sales and the total amount charged or received for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in “gross receipts” shall be all receipts, cash credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Included in “gross receipts” as concerns telephone companies shall be only those receipts derived from providing telephone service within the city and only receipts resulting from intrastate telephone service. Excluded from “gross receipts” shall be cash dis-counts allowed and taken on sales; credit allowed on property accepted as part of the purchase price and which property may later be sold; any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser; such part of the sale price of property returned by purchasers upon recession of the contract of sale as is refunded whether in cash or by credit; amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those from whom collected.

\textit{Note:} All receipts of a business should be included under gross receipts with the following exceptions:
(1) Cash discounts allowed.
(2) Trade-in allowances.
(3) Sales tax.
(4) Excise tax.
(5) Any other tax included in or added to the price of the product.
(6) Sales return allowances.
(7) Amounts collected as an agent which are to be paid to others. (An example of this might be a down payment collected by a realtor or a stock purchase price collected by a stock broker.)

(o) \textit{Itinerant vendor or itinerant merchant} shall mean and include all persons, both principal and agent, who engage in a temporary or transient business in the city, selling or offering to sell goods, wares or merchandise or any other thing of value, with the intention of conducting such business for a period of less than ninety (90) days, and who for the purpose of such business hires, leases or occupies any room, doorway, vacant lot, building or other place, for the exhibition for sale of goods, wares, merchandise or other thing of value. If any such place, occupied or used for such business, is rented or leased for a period of less than ninety (90) days, such fact shall be presumptive evidence that the business carried on therein is a transient business; and any person so engaged shall not be relieved from the provisions of this section or from payment of the license taxes herein provided for such business, by reason of any temporary association with local dealer, trader, merchant or auctioneer.

The provisions of this section shall not apply to commercial travelers or selling agents, selling their goods exclusively to merchants, dealers or traders, whether selling for present or future delivery, by sample or otherwise, not to peddlers, as the same is defined in this chapter, nor to persons selling fruit, vegetables, eggs, butter or other farm or ranch products of their own farm or dairy, exclusively.

(p) \textit{Insurance broker} is a person who, for compensation and on behalf of another person, transacts insurance other than life with, but not on behalf of, an insurer.

(q) \textit{Paid promoter}, as defined as every person, and each agent or representative of such person conducting, carrying on or managing, for any compensation whatsoever, the business of selling tickets for, or promoting by advertising or otherwise, any activity within the city.
(r) **Peddler** shall mean and include any person who goes from house to house, place to place, or in or along the streets, within the city selling or offering to sell, barter or exchange, and making or offering to make immediate delivery of any goods, wares, merchandise or anything of value, in the possession of the peddler to persons other than manufacturers, wholesalers, jobbers or retailers of such commodities, provided that a producer who furnishes directly and delivers any poultry, eggs, butter, fruit, vegetables or meat being exclusively the produce of his own garden, farm, ranch, or dairy to persons within the city, shall not be deemed a peddler within the meaning of this section.

(s) **Personal loans or supplier of financing** shall mean every person who either for himself or any other person engages in the business of loaning money, advancing credit, loaning credit, whether security of any kind (personal or real property) is taken for such loan or advance or not, or purchasing or discounting of any obligation of money due or to become due or any evidence of any obligation of money due, whether such obligation is secured or guaranteed or not. Nothing in this section shall be deemed or construed to apply to any person conducting a banking business or financial corporation exempt under the laws of California, or to persons required to be licensed by the State of California under provisions of the "Personal Property Brokers Act," or to the holder of a pawnbroker's license.

(t) **Person** shall mean and include all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, societies, and individuals transacting and carrying on any business in the city other than as an employee.

(u) **Quarter** shall mean a period of three (3) calendar months. The quarter as referred to in this chapter shall commence on the first days of July, October, January, and April and end on the last days of September, December, March and June. A quarter shall include any fraction thereof.

(v) **Recyclable waste hauler** shall mean and include any person who goes from place to place, or business to business, within the city collecting and hauling recyclable waste materials such as bottles, cans, cardboard, oil, paper or paper products, or any other substance for the purpose of reclamation or other use. Nothing in this section shall be deemed or construed to apply to any person conducting business as a junk dealer.

(w) **Removal-of-business sale** is a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place upon disposal of the stock of goods on hand and then will remove to and resume business at a new location in the city or will continue business from other existing locations in the city.

(x) **Semiannual** shall mean a period of six (6) calendar months. The semiannual period as referred to in this chapter shall commence on the first days of July and January and end on the last days of December and June. A semiannual period shall include any fraction thereof.

(y) **Solicitor or canvasser** shall mean and include any person who goes from house to house or from place to place within the city, selling or taking orders for, or offering to sell or take orders for, any goods, wares or merchandise or any article, for future delivery, or selling or taking orders for any service or services to be furnished or performed in the future at any place within the city or to any person other than a fixed place of business, or for making, manufacturing, treating or repairing of any article or thing whatsoever, for future delivery.

(2) **Flea-market or swap-meet** shall mean any collection of two (2) or more vendors gathered together in a common area segregated by spaces, booths or other designated selling locations for the purpose of selling, offering to sell, bartering, or offering to barter, or any combination thereof, goods, wares, merchandise or articles of value. This definiten-
§ 15-2. Purpose of chapter.
This chapter is enacted to raise revenue for municipal purposes and to assure the orderly conduct of the business community of the city. (Ord. No. 1324, 12-18-84)

§ 15-3. Substitute for other revenue ordinances.
Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance or chapter of the city and shall remain subject to the regulatory provisions of other ordinances. (Ord. No. 1324, 12-18-84)

Sec. 15-4. Effect of chapter on past actions and obligations previously accrued.
Neither this chapter nor its superseding of any portion of any other ordinance or chapter of the city shall in any manner be construed to affect prosecution for violation of any other ordinance or chapter committed prior to the effective date hereof, nor be construed as a waiver of any license or any penal provisions applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited; and all rights and obligations thereunto appertaining shall continue in full force and effect. (Ord. No. 1324, 12-18-84)

Sec. 15-5. License required.
(a) General business license. There are hereby imposed upon the businesses, trades, professions, callings and occupations transacting business within the city, license taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from said city so to do or without complying with any and all applicable provisions of this chapter.

This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the State of California.

Persons not required to obtain a license prior to doing business within the city because of conflict with applicable statutes of the United States or of the State of California shall not be liable for payment of the tax imposed by this chapter.
tain (1) the name of the person to whom the license is issued, (2) the business or profession licensed, (3) the place where such business or profession is to be transacted and carried on, (4) the date of the expiration of such license, and (5) such other information as may be necessary for the enforcement of the provisions of this chapter.

Upon a person making application for the first license to be issued hereunder or for a newly established business or profession, in all cases where the amount of license tax to be paid is measured by gross receipts, such person shall furnish to the collector for his guidance in ascertaining the amount of license tax to be paid by the applicant, a written statement, upon a form provided by the collector, sworn to before a person authorized to administer oaths, setting forth such information as may be therein required and as may be necessary to determine the amount of the license tax to be paid by the applicant.

If the amount of the license tax to be paid by the applicant is measured by gross receipts, he shall estimate the gross receipts for the period to be covered by the license to be issued. Such estimate, if accepted by the collector as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within thirty (30) days after the expiration of the period for which such license was issued, furnish the collector with a sworn statement, upon a form furnished by the collector, showing the gross receipts during the period of such license, and the license tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of renewal license taxes for other businesses or professions, after deducting from the payment found to be due, the amount paid at the time such first license was issued.

In all cases, the applicant for the renewal of a license shall submit to the collector for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a written statement, upon a form to be provided by the collector, written under penalty of perjury, or sworn to before a person authorized to administer oaths, setting forth such information concerning the applicant’s business or profession during the preceding year as may be required by the collector to enable him to ascertain the amount of the license tax to be paid by said applicant pursuant to the provisions of this chapter.

(b) Card room license. Every person desiring to conduct, operate or carry on the business of a card room shall make written application to the chief of police for a license to do so on forms provided by him. The chief of police shall make such investigation of the applicant and of the premises as he deems necessary or is deemed necessary by the city council. (Ord. No. 1324, 12-18-84)

Sec. 15-8. License issuance.

(a) General business license. The collector shall issue a business license to any person applying therefor when he is satisfied that the business will not conflict with any law, ordinance or regulation of the city.

(b) Card room license. The chief of police shall report the findings of his investigation as described in section 15-7(b) of this chapter, together with his recommendation, to the city council. The city council may, in its discretion, issue the license subject to such conditions as it deems reasonable, or refuse to issue the license. The city council shall be the sole judge of the sufficiency of whether the issuance or denial of the license is detrimental to the public health, morals, general welfare or the public peace. The decision of the city council shall be final.
(c) **Street Vendors/Peddlers Business License.**

The following information will be collected prior to the issuance of a street vendor/peddler license:

1. A description of the type of food/merchandise to be sold.
2. A description of the type of conveyance or vehicle and proposed locations.
3. Evidence of Tulare County health department certificate.
4. Evidence of general liability insurance, automobile liability, and workers compensation (when applicable).

   a. General liability insurance, including public liability, property damage insurance, and products liability, the form of which shall be subject to the approval of the city risk manager, indemnifying the city from any liability whatsoever arising out of the carrying on of any business authorized by such permit. Such insurance shall name the city, its officers, employees, agents and volunteers as additional insured, shall provide for cross-liability between insured and provide that the applicant's insurance is primary to any insurance coverage administered or owned by the city. The amounts of insurance coverage shall be in the form of a one hundred thousand dollar ($100,000.00) umbrella policy aggregate per incident;

   b. Workers compensation insurance as required by state statutes, when operators are employees and not owners; and

   c. Automobile liability coverage as required by state statutes.

(5) Evidence of payment of the city's business license fee of twenty-five dollars ($25.00) semianually per vehicle, cart or any other type of conveyance.

(6) Photo identification cards to be carried by vendor.

(7) Evidence of state sales tax identification number or certificate of state sales tax identification number or certificate of state sales tax exemption.

(8) Evidence of sound registration statement approval by city police department in accordance with chapter 3, article III, section 3-12 of the Porterville City Code for those street vendors with sound systems.

(9) This requirement shall not apply to caterers licensed under chapter 15, section 15-23, Gross receipts, classification B, of the City Code. (Ord. No. 1324, 12-18-84; Ord. No. 1531, § A2, 6-18-96)

Sec. 15-9. **License renewal.**

**General business license.** The collector shall renew any license upon payment of the proper fee and when the conditions set forth under section 15-8(a) of this chapter are met. (Ord. No. 1324, 12-18-84).

Sec. 15-9.1 **Termination of business.**

Any business which shall remain within closed doors, without being open to the public for the transaction of business for thirty (30) days shall be deemed and considered to be finally terminated, and the license to conduct same shall be declared to be forfeited, and any person desiring to reopen or continue such business will be required to take out a new license in accordance with the provisions of this chapter.

In the event that the period of thirty (30) days is not or appears to be not sufficient time for the closing of such business, the proprietor or operator of the business may make application to the city council for an extension of time, submitting such evidence as he may have in support of his application, and the decision of the city council shall be final.
The terms conducting business continuously or remaining in business in the city shall mean any business which is open to the public for the transaction of business on every legal business day of the year, Sundays and legal holidays being excepted. An exception will be made in case of a business which is being prepared for a sale or for the purpose of inventory taking at which time not to exceed five (3) days' closure will be allowed; provided, that any business, which from its nature is seasonal or operative for only a portion of each year, may be excepted from the above definition if the applicant for a license will file with the city a declaration or statement of this fact when applying for license; provided, further, that in no case shall a greater than fifty (50) percent reduction be made from the regular license rate on account of the seasonal nature of the business. (Ord. No. 1324, 12-18-84)

Sec. 15-10. Penalties.

(a) All license taxes due hereunder shall be paid in the office of the collector unless otherwise expressly provided.

(b) General business license. For failure to pay a license tax when due, whether for renewal of an existing license or for failure to make application and payment for license prior to first day of commencing business, the collector shall add successive, cumulative penalties in the amount of twenty-five (25) percent of the business tax per month on the last day of each month after the due date thereof, providing that the amount of such penalty to be added shall in no event exceed three hundred (300) percent of the amount of the business tax due.

(c) License taxes shall be considered due and payable and delinquent as follows:

(1) Application and payment for license must be made prior to the first day of conducting business and shall be considered delinquent at 8:00 a.m. on the first day of conducting such business.

(2) Annual license taxes shall be due on the first day of July and shall be delinquent at 5:00 p.m. on the last day of July.

(3) Semiannual license taxes shall be due on the first day of July and January and shall be delinquent at 5:00 p.m. on the last day of the first month in which the semiannual tax is due.

(4) Quarterly license taxes shall be due on the first day of July, October, January and April, and delinquent at 5:00 p.m. on the last day of the first month in which the quarterly tax is due.

(5) Monthly license taxes shall be due on the first day of the month for which the license is sought and delinquent at 5:00 p.m. on the last day of said month.

(6) Weekly license taxes shall be due on Monday of each week and shall be delinquent at 5:00 p.m. on Friday of said week.

(7) Daily license taxes shall be due on its effective date and delinquent at 5:00 p.m. of due date.

(d) In lieu of paying said license taxes at the office of the collector as specified in subsection (a) hereof, said license taxes may be deposited in United States mail, postage prepaid, on the due date, provided the transmitting envelope contains a postage cancellation stamp showing cancellation not later than 12:00 midnight on the due date.

(e) If the due day falls on Saturday, Sunday or a holiday, the due day shall be the next regular business day on which the city hall is open to the public.
(f) The collector may, for good cause, extend for not more than thirty (30) days the time for filing any report or paying any sum required to be paid hereunder. The extension may be granted at any time provided a written request therefor is filed with the collector prior to the delinquency date.

(g) The provisions in this section are in addition to and shall not limit the provisions of section 15-21. (Ord. No. 1324, 12-18-84)

Sec. 15-11. Enforcement, inspections and audits of businesses.

It shall be the duty of the collector, and he is hereby directed, to enforce each and all of the provisions of this chapter. The chief of police shall render such assistance in the enforcement hereof as may from time to time be required by the collector or the city council.

The collector in the exercise of the duties imposed upon him hereunder and, acting through his deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with.

The collector and each and all of his assistants and any police officer of the City of Porterville shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to procure a business license herein, and demand an exhibition of said license. Any person having such business license theretofore issued, in his possession or under his control, who willfully fails to exhibit the same on demand, shall be guilty of a misdemeanor and subject to the penalties provided for by the provisions of this chapter. It shall be the duty of the collector and each of his assistants to seek a complaint from the appropriate authority to be filed against any and all persons found to be violating any of said provisions.

No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the collector, his deputies, or authorized employees of the city, who are hereby authorized to examine, audit and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the amount of license fee due.

All licenses, applicants for licenses, and persons engaged in business in the city are hereby required to permit an examination of such books and records for the purposes aforesaid.

The information furnished or secured pursuant to this section or any other section of this chapter shall be confidential except that the business name, address, telephone number, the owner's name and dates business commenced or closed, which information shall be subject to public inspection. (Ord. 1324, 12-18-84)

Sec. 15-11.1. License fee debt; minimum fee.

The amount of any license imposed by this chapter shall be deemed a debt to the city; and any person carrying on any trade, calling, profession or occupation mentioned in this chapter without having a license from the city to do so shall be liable to an action in the name of the city in any court of competent jurisdiction, for the amount of license imposed on such trade, calling, profession or occupation by the provisions of this chapter.

A suit may be brought against any person for any license fee in this chapter specified, due and unpaid, in the name of the city, in any court of competent jurisdiction. The city attorney is authorized to bring such action when in his judgment there is reason to believe the amount can be collected, and an attachment may also be issued.
(26) **Severability.** If any portion of this subsection is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this subsection. The city council hereby declares that it would have adopted this subsection and each portion thereof, irrespective of the fact that any one (1) or more sections, subsections or portion be declared invalid or unconstitutional.

(e) **Community civic events.**

(1) The city council may authorize, upon receipt of application, issuance of a permit for temporary selling activities and advertising relating thereto, on sidewalks, parkways, roadways and other city-owned property, in connection with a community civic event sponsored and conducted by a nonprofit organization formed for charitable, educational, civic, veteran, philanthropic or other benevolent purposes, under the following conditions.

(2) **Community civic event** shall mean the sponsoring and conducting by a nonprofit organization of a civic, artistic, cultural, charitable, educational, veteran or benevolent activity of community interest. The council shall require reasonable proof of the nonprofit status of the sponsoring organization and sufficient showing of community interest.

(3) **Application and fee.** The nonprofit sponsor of the community civic event shall be exempt from a license fee. The finance director shall be the issuing authority for said permit after approval of the city council, and as said authority shall develop such procedures, forms, etc., necessary to carry out the purposes of this subsection for submittal of application to the council.

(4) Said permit shall be valid for a period not to exceed four (4) consecutive days, one of which shall be a Saturday, Sunday or national holiday.

(5) Each application for a permit must be presented to the council not less than thirty (30) nor more than one hundred eighty (180) days before the commencement date of the proposed permit activities; provided that the council may waive these time requirements if it determines such waiver to be in the public interest.

(6) No person or sponsoring organization shall fail to keep the permit, at all times, at the place where the selling activities are being conducted, nor fail upon demand therefor to exhibit such permit to any public officer.

(7) The application for such permit shall contain:

a. The name of the applicant, the sponsoring organization, the event chairman, and the addresses and telephone numbers of each.

b. The location and outside perimeter of the selling area, indicated upon a map of the area.

c. The date and times at which the selling activities are to take place.

d. A description of the selling activity which will be conducted.

e. A list of all persons who will be engaging in temporary selling activities at any time during the dates and times for which a temporary selling permit is granted shall be furnished no later than one (1) week before the event is to take place.
(8) The council shall cause such application to be investigated and shall grant the permit if it determines that the proposed activities will not disrupt to an unreasonable extent the movement of vehicular or pedestrian traffic or create a hazard to the public; that the proposed activities are not of a size or nature that require the diversion of so great a number of police personnel to regulate such activities that it prevents reasonable police protection for the City; that the concentration of persons, equipment and materials is not so great in the selling area that it would prevent proper fire, police and ambulance protection; and that the permit applicant agrees to be responsible for cleanup necessitated by the proposed activities; and the council may, in its discretion, require a cleanup deposit to guarantee that cleanup takes place.

(9) The council shall further condition the granting of such permit upon the applicant's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the City and its officers and employees against all claims arising out of or in connection with the issuance of the permit or the operation of the permittee, his agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars ($1,000,000.00) per occurrence of bodily injury and property damage, combined single limit.

(10) The council shall condition the granting of permits upon compliance with the provisions of this subsection and also with such other conditions as the council may deem necessary to impose or the proper protection of persons and property.

(11) The sponsoring organization may impose a reasonable charge or exhibit fee on each participating seller or exhibitor and shall be responsible for enforcing all requirements of this subsection and regulations imposed by the sponsoring organization. Any net profit received by the sponsoring organization shall be utilized for the civic, artistic, cultural, charitable, educational, veteran or benevolent activities of the organization within the City of Porterville.

(12) Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar ($1.00) per day per amusement, entertainment, exhibit, ride, or per booth, space, stall, stand or other unenclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm, concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection.

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the event. Said remittance shall be accompanied by consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California Sellers Permit number. Said receipts shall be furnished by the city. One (1) copy of the receipt shall be furnished to the licensee, one (1) copy filed with the finance department of the city, and one (1)
copy retained by the event sponsor for a period of three (3) years for audit purposes.

(f) Fortunetelling.

(1) Purposes and findings.

a. The practice of fortunetelling, as defined in this section, has historically been subject to abuse by certain unscrupulous practitioners using the practice to commit fraud and larceny upon clients.

b. It is the purpose of this section to regulate the practice of fortunetelling in such a manner as to reduce the risk of fraud and larceny to clients while allowing fortunetellers to provide their services to clients with only minimal restrictions.

c. The provisions of this section requiring a permit, posting of fees, providing receipts and allowing client recordation of the consultation, will make it more difficult for an unscrupulous fortuneteller to commit fraud or larceny, and yet, as informational regulations, will not affect the nature of the information conveyed by the fortuneteller nor the manner in which it is conveyed. These regulations require only minimal expense and effort on the part of the fortuneteller and will not, therefore, impose any undue burden on their practices.

d. Fortunetelling for entertainment purposes, as defined in this section, does not create the same risk of fraud and larceny by an unscrupulous practitioner as would the practice with an individual client because it is done with a group at a public place for the purpose of entertaining and not to deal with the private concerns of an individual.

e. For these and other reasons; the provisions of this section are necessary to protect the health, safety and welfare of the community.

(2) Permit required. No person shall conduct, engage in, carry on, participate in, or practice fortunetelling or cause the same to be done for pay without having first obtained a permit therefor.

(3) Definitions. As used in this Code [subsection]:

a. “Fortunetelling” shall mean and include telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, including, but not limited to, clairvoyance, clairaudience, cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, divination, soothsaying, mantic, necromancy, mind-reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature.

b. “For pay” shall mean for a fee, reward, donation, loan or receipt of anything of value.

(4) Permit application. Every natural person who, for pay, conducts, engages in, carries on, or practices fortunetelling shall file a separate verified application or a permit with the business license officer. The application shall contain:

a. The name, home and business address, and home and business telephone number of the applicant.

b. The record of conviction for violations of the law, excluding minor traffic violations.

c. The fingerprints of the applicant on a form provided by the police department.
d. The address, city and state, and the approximate dates where and when the applicant practiced a similar business, either alone or in conjunction with others.

e. A nonrefundable application fee in an amount of one hundred dollars ($100.00) to cover cost incurred by the city in staff time, and other expenses involved in investigation and processing of permit.

(5) **Investigation.** Upon the filing of the application, it shall be referred to the police department for investigation, report and recommendation. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report and recommendation made in writing to the business license officer within twenty-one (21) days after the filing of the application, unless the applicant requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth therein.

(6) **Hearing and decision by business license officer.** The business license officer shall consider the application and the police department report and recommendation at a hearing held not less than seven (7) nor more than fourteen (14) days following receipt of the police department report described in subsection (5). Notice of the time and place of the hearing and a copy of the police department report shall be given to the applicant personally or by certified mail by the business license officer at least five (5) days prior to the hearing. Any interested parties shall be heard at the hearing. City shall have the burden of proof to show the permit should be denied. The decision of the business license officer to approve, deny or conditionally approve the permit shall be in writing, and if adverse to the applicant, shall contain findings of fact and a determination of the issues presented. Unless the applicant agrees in writing to an extension of time, the business license officer shall make his or her decision approving, denying, or conditionally approving the permit within twenty-four (24) hours after completion of the hearing on the application for a permit and shall notify the applicant of his or her action by personal service or certified mail.

(7) **Approval of permit.** The business license officer shall approve or conditionally approve the permit if he or she makes all of the following findings:

   a. All the information contained in the application and supporting data is true;

   b. The applicant has not, within one (1) year from the date of the application, been convicted of any violation of this Section or crimes involving prediction of future events by the occult arts, larceny, perjury, bribery, extortion, fraud, or crimes involving moral turpitude;

   c. The applicant has paid the required business license fee; and

   d. The applicant agrees to abide by and comply with all conditions of the permit and applicable laws.

(8) **Term of permit.** The term of the permit and the term of the business license shall be for one (1) year from the date of issuance. A renewal application shall be filed no later than thirty (30) days prior to the expiration of the permit and shall be processed in the same manner as a new application.
(ii) One (1) square foot per linear foot of display frontage up to fifty (50) feet plus one-half square foot for each additional linear foot of display frontage to which such signs pertain for businesses conducted primarily outside of a building.

(b) Their height, including any part of the sign or advertising structure, shall not exceed the roofline of the building to which such signs are attached.

(c) Freestanding business identification signs, permanent reader panels or combinations thereof and their supporting structures, provided that:

(i) Their total height above the finished grade at the front property line does not exceed thirty (30) feet in height.

(ii) All other stipulated requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein have been satisfied.

(iii) A business with frontage on more than one (1) street shall be allowed additional signing on each street frontage, computed by the above formula.

(iv) No ground sign shall be located or constructed in any manner which could constitute a hazard to vehicular or pedestrian traffic on public or private property, and shall be subject to all of the regulations in this chapter.

Ground signs shall be subject to the setback requirements applicable to buildings in the zoning district where located.

(v) Signs displayed on awnings, canopies and marquees shall be subject to all of the regulations as stipulated in this chapter.

Temporary signs, pennants or banners shall not be suspended from any structure which, in opinion of the building inspector, is not capable of supporting additional weight or wind loads.

(vi) When an exterior wall of a building faces abutting property in an R Zone, no advertising signs shall be painted or placed on such wall or on any portion of the lot between said wall and said R Zone.

(vii) The total advertising area permitted within this section shall include all business identification signs in the aggregate, visible from the exterior of the business.

(3) Center identification signs: In addition to the above, one (1) center identification sign per street frontage is allowed for integrated developments of five (5) or more separate businesses, subject to the following:

(a) The combined sign area of the center identification sign does not exceed thirty (30) square feet per one hundred (100) lineal feet of the street frontage on which the sign is located; provided, however, that no one (1) sign shall exceed three hundred twenty (320) square feet per face.

(b) No sign is permitted for frontage areas, located adjacent to residentially zoned districts, within a projection of the adjacent residential building setback line.

(c) No sign shall exceed twenty (20) feet in height above the highest finished grade of the center at the street right-of-way line.

(d) No sign shall be located within twenty (20) feet of the side property lines on
interior lots, or in such a manner as to constitute a hazard to pedestrian or vehicular traffic.

(4) Window signs: Signs advertising sales, cut rates, weekend specials, and similar sales and promotions when made of paper, cardboard or similarly unstable material, are permitted only on the interior side of the building or structure through which they are viewed.

(Ord. No. 1385, § 3, 8-18-87)

Section 2021. Advertising in the P-D and O-A Zones.

A. The following regulations shall apply to all signs and advertising structures in the P-D (Planned Development), and O-A (Open Area) Zones.

(1) No sign shall be permitted that does not pertain directly to an approved business, service or activity conducted on the premises except as may be provided in section 2011 and section 2012, or unless exempted by section 2006.

(2) All signs and advertising structures shall conform to a uniform sign program approved by the city council in accordance with the conditional use permit provisions of Article 29 contained within this ordinance.

(Ord. No. 1363, § 27, 8-19-86)

ARTICLE TWENTY-ONE. SPECIAL USES

Section 2100. Special uses explained.

A. The uses mentioned in this article are uses which for reasons of the public necessity are sometimes required to be permitted in zones other than in which regularly classified, or are sometimes not included within any specific zone, or sometimes require the imposition of certain conditions upon design, installation and subsequent operation in order to carry out the purposes of this ordinance and to protect the public health and welfare because of the unique and special characteristics of such uses.

B. Sales of Alcoholic Beverages. Any use involving the sale of alcoholic beverages under an on-sale license shall be subject to obtaining approval of a conditional use permit as follows:

(1) Any new establishment proposing to sell alcoholic beverages under an on-sale license whether in conjunction with the serving of meals or not:

(2) A change in the type of on-sale license to a more permissive type;

(3) The discontinuance of an existing use and re-establishment of such; i.e., an establishment legally operating under an existing on-sale license prior to adoption of the Ordinance amendment requiring approval of a conditional use permit to allow such is closed for a period of thirty (30) days or more. Said uses shall also be subject to the provisions of Article 25 of this ordinance; or

(4) There is a significant change in the mode or character of the establishment;

(5) The suspension of on-sale license by the State of California.

(Ord. No. 1393, § 1, 11-17-87)

C. Off-Sale Liquor Establishment Defined. An off-sale liquor establishment shall mean any establishment wherein alcoholic beverages are sold or given away for consumption off the premises which is applying for or has obtained an off-sale license from the California Department of Alcoholic Beverage Control, including license types 20 and 21.

D. Sales of alcoholic beverages, Off-sale. No off-sale liquor establishments proposed after February 1, 1991, shall be located within six hundred
(600) linear feet of the nearest property line of any school (public or private, approved pursuant to the provisions of article 29 of the zoning ordinance), public park and/or playground, or legally established church (approved pursuant to the provisions articles 21 and 29 of the zoning ordinance) without first having obtained approval of a conditional use permit.

Any duly licensed off-sale liquor establishment in operation on February 1, 1991, shall be subject to the provisions of article 25 of this ordinance.
Ord. No. 1450, § 1, 1-2-91)

Section 2101. Effect of permit requirement.
A. No use listed in section 2103 shall be permitted in any zone in the city without such review and such permit, unless in a zone where such use is specifically permitted by this ordinance.

B. Any use listed in section 2103 after the same has been reviewed and a conditional use permit therefore [therefor] has been issued in the manner herein mentioned may be permitted in any zone in the city specified in such permit unless otherwise provided in this article.

C. The requirements relating to yards, height, area and off-street parking applicable to the particular zone in which any conditional use is proposed to be located shall prevail, subject to any additional requirement imposed as a condition to the permit, including a time limit.

D. In the case of public utility transmission towers and lines, the same shall be permitted in any zone in the city without the necessity of a permit; provided that at least sixty (60) days prior to acquisition of title to land or rights-of-way therefore [therefor], the city council shall be advised in writing of the proposed route and location thereof by the public utility company.
Ord. No. 1363, § 28, 8-19-86

Section 2102. Review: Factors to be considered.
A. The purpose of the review shall be to establish that the special use will be compatible with the uses permitted in the surrounding area and to specify conditions for design, installation and subsequent operation as may be reasonably required to make and keep said special uses compatible and carry out the purpose of this ordinance in general.

B. Factors to be considered in said review shall be the effect of the special use upon existing and potential uses in the general vicinity from the standpoint of public safety, health and welfare, including:

1. Damage or nuisance from smoke, odor, gas, dust, litter, vibration, noise, electrical disturbance, radiation, heat, glare or other similar causes.

2. Hazard from explosion, contamination, electricity or fire.

3. Hazards or noise arising from unusual congregation or volume of traffic, persons or vehicles.

C. The city council may deny any application if it cannot find that the public health, safety and general welfare are not adequately protected as set out in paragraph B, above.
Ord. No. 1363, § 29, 8-19-86

Section 2103. Uses included.
A. The special uses referred to in this article are as follows:

1. Airports, heliports.

2. Cemeteries.

3. Churches (not permitted in a C-1 Zone).

4. Columbariums, crematories or mausoleums; provided that none of the foregoing shall be permitted in any Zone, unless within a cemetery.

5. Fire or police stations; court and government office buildings.
(6) Golf courses or driving ranges.

(7) Play areas, playgrounds and public parks.

(8) Public utility facilities, including but not confined to communications equipment buildings, water wells, substations, and excluding public utility pole lines, pipes, conduits, distribution mains and domestic water wells. (With reference to transmission towers and lines, see section 2101 D.)

(9) Radio or television transmitters and receivers.

(10) Refuse dumps and disposals.

(11) Mental hospitals (provided such use shall not be permitted in any R Zone).

(12) Railroads.

(13) Condominiums: Condominiums or similar developments, either new structures or the conversion of existing structures originally built for sale or lease, shall be allowed in any district upon securing approval of a conditional use permit as provided in this article, and further provided that:

(a) Regulations governing use, density, building height, required yards, building separations, signs and off-street parking, and other explicit regulations, where applicable, shall be those of the zoning district within which the development site is located.

(b) Residential condominiums shall be classified as follows:

(i) Horizontal: One in which single-family dwelling units are constructed either as separate structures or as self-contained units within a common structure having individual entrances and utility connections, no opening in any wall common to two (2) or more

units, and no part of any other unit.

(ii) Vertical: Any duplex, triplex or apartment house, as defined in the Uniform Building Code, in which any part of any dwelling unit is on top of any part of any other dwelling unit.

(c) Maximum allowable density in any residential condominium in any single-family district shall be:

(i) R-A Districts: One (1) unit for every twenty thousand (20,000) square feet of gross lot area.

(ii) R-E District: One (1) unit for every twelve thousand hundred (12,500) square feet of gross lot area.

(iii) R-1-8 District: One (1) unit for every eight thousand (8,000) square feet of gross lot area.

(iv) R-1 District: One (1) unit for every six thousand (6,000) square feet of gross lot area.

(v) Maximum allowable density in any residential condominium in the R-2 District shall be one (1) unit for every three thousand (3,000) square feet of gross lot area.

(vi) Maximum allowable density in any residential condominiums in the R-3 District shall be one (1) unit for every fifteen hundred (1,500) square feet of gross lot area.

(vii) Maximum allowable density in any residential condominiums in the R-4 District shall be one (1) unit for every one thousand (1,000) square feet of gross lot area.
(viii) "Gross lot area" as used in this section shall mean the total area of the development site, including all area held in common, and private streets and roads, but not publicly owned property.

(d) In all residential condominiums, the outdoor common area, exclusive of all structures, shall contain an area having a slope of not more than ten (10) percent, and a minimum area per unit as follows:

(i) For horizontal condominiums: One thousand (1,000) square feet per unit, not including parking areas.

(ii) For vertical condominiums:

a. Where structures average two (2) stories or less: Five hundred (500) square feet per unit, not including parking areas.

b. Where structures average more than two (2) stories: Four hundred (400) square feet per unit, not including parking areas.

(iii) The requirements of this section may be met in whole or in part by any equivalent open ground area which is a part of the fee to any individual condominium.

a. In any condominium in which residential uses are proposed in any R District, the main structures shall be separated from any other main structures on the same lot by a distance of not less than one-half (½) of the sum of the heights of the two (2) buildings, and in no case less than twenty (20) feet.

b. The side yard setback of any residential main structure on any condominium lot on a public street shall be five (5) feet if the distance between the front lot boundary and the rear lot boundary is one hundred (100) feet or less, and ten (10) feet if the distance between the front lot boundary line and the rear lot boundary line is over one hundred (100) feet.

c. Application for a conditional use permit shall be accompanied by:

1. Map, to a workable scale, showing the site in relation to surrounding property, existing roads and other existing improvements.

2. Site plan, showing proposed improvements, location of buildings on the ground, orientation of building, utilities, public services, public facilities, streets and alleys, landscaping and the boundaries of the project.

3. Drawings showing how airspace is to be divided within the condominium, if applicable.

4. Copy of the tentative subdivision map.

5. Floor plans and elevation of all proposed buildings and structures.

6. Any information deemed necessary or desirable in assisting the City Council in its determination on the use permit and the conditions thereof.

7. A copy of the declaration of restrictions, and proposed management agreement, relating to the project as required by section 1355 of the Civil Code.
d. It is the express intent of the City of Porterville to apply the foregoing regulations to condominiums, community apartments and similar type developments, whether cluster, townhouse or vertical design, because the permanent ownership or interest in individual dwelling units, or the airspace thereby, renders these developments essentially different in nature from developments or buildings in which dwelling units are rented or leased.

(14) Deleted. (Ord. 1627, § 2, 1-7-03)

15) Street Vendors: No vendor shall stop, stand, or park, for the purpose of vending or exhibiting merchandise, at or on any publicly-owned or Redevelopment Agency-owned property in any C-1, C-2, C-3, C-H, M-1, or O-A zone district. No vendor shall stop, stand, or park, for the purpose of vending or exhibiting merchandise, at or on any privately-owned property in any C-1, C-2, C-3, C-H, M-1, or O-A zone district without first securing a conditional use permit as provided in this article. Promotional events occurring on private property for businesses licensed under Chapter 15 of the City Code shall be exempt from obtaining a conditional use permit so long as the event is limited to not more than any five (5) calendar days within any 30 calendar day period. This requirement to secure a conditional use permit on private property shall not apply to caterers licensed under Chapter 15, Section 15-23, Gross Receipts, Classification (B), of the City Code.

(Ord. No. 1290, 11-15-83; Ord. No. 1363, § 30, 8-19-86; Ord. No. 1385, § 5, 8-18-87; Ord. No. 1532, § 1, 6-18-96; Ord. No. 1539, § 1, 8-20-96; Ord. No. 1554, § 6, 2-17-98)
ARTICLE I. IN GENERAL

Sec. 20-01. Sidewalk defined.
As used in this chapter, "sidewalk" includes a park or parking strip maintained in the area between the property line and the street line and also includes curbing, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip. (Ord. No. 1365, § A(1), 11-18-86)

Editor's note—Ordinance No. 1365, § A(2), adopted Nov. 18, 1986, amended ch. 20, art. I, by adding thereto a new section designated 20-0. In order to maintain the numbering system used in this Code, the editor has redesignated such section as § 20-01.

Sec. 20-1. Obstructions generally; riding or driving bicycles, animals, or vehicles on sidewalks.
Any person who obstructs with machinery, vehicles or merchandise or in any manner, any street, alley or sidewalk, in such manner as to impede, delay or endanger travel thereon, or shall ride or drive or cause to be rode or driven any horses, mules, hogs, sheep or cattle, bicycles or other vehicles on any sidewalk in the city shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment. Each day that any provision of this chapter is violated is a separate and distinct offense and shall be punishable as a separate and distinct offense. Notwithstanding the classification of a violation of this article as a misdemeanor, at the time an action is commenced to enforce the provisions of this article, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction. Any person convicted of an infraction under this article shall be punished by:

(a) A fine not exceeding fifty dollars ($50.00) for a first violation;

(b) A fine not exceeding one hundred dollars ($100.00) for a second violation of this article within one (1) year; and

(c) A fine not exceeding two hundred fifty dollars ($250.00) for each additional violation of this article within one (1) year.

Street vendors/peddlers utilizing pushcarts (walking type) licensed by the city in compliance with section 15-8 of this Code shall be exempt from this section to the extent that said pushcarts do not endanger travel. (Ord. Code, § 3311; Ord. No. 1531, § D1, 6-18-96)

Sec. 20-1.1. Skateboards prohibited.
Any person who rides, propels, pushes or in any other manner uses the vehicle commonly known as a skateboard on any sidewalk, walkway, crosswalk or other area designed primarily for pedestrian travel in the area bounded by Morton and Olive and Second and Hockett in the city shall be guilty of a misdemeanor. (Ord. No. 1368, 11-18-86)

Sec. 20-1.2. Occupancy of public right-of-way.
Except as provided by Section 20-57 pertaining to Porterville Redevelopment Project Area No. 1 and Section 20-58 pertaining to Fence Encroachment Permits, any person who constructs or affixes, or causes to be constructed or affixed, any structure, sign, canopy, awning, lighting fixture, or any other device, equipment or fixtures, which projects into the public right-of-way beyond the property line of a building site, without first having obtained approval from the city council by way of an encroachment agreement, is guilty of an infraction. (Ord. No. 1498, § 1, 6-7-94; Ord. 1563, § 1, 12-1-98)

Sec. 20-1.3. Encroachment agreement; defined.
An agreement between the city and the owner of real property located within the city permitting the property owner who is a party to the agreement to construct or place temporary or permanent improvements, structures, signs, awnings, fences, fixtures,
or other similar appurtenant structures, within the public right-of-way owned by the city and adjacent to the real property described in the agreement, and which is subject to the terms, covenants and conditions contained therein. (Ord. No. 1498, § 2, 6-7-94)

Sec. 20-2. Repair of sidewalks and curbs—Required; notice.

When any portion of any improved public street in the city or any sidewalk or curb constructed thereon shall be out of repair or pending reconstruction, and in condition to endanger persons or property passing thereon, or in condition to interfere with the public convenience in the use thereof, it shall be the duty of the superintendent of streets, or such other person as shall be appointed or delegated by the council or the city manager for that purpose, to require, by notice in writing, to be delivered to them, or their agent personally, or left on the premises, or mailed to their last known address, the owners or occupants to forthwith proceed to do the work necessary to be done, and such notice shall particularly specify what work is required to be done, and how the same is to be done and what materials shall be used, if any are required. (Ord. Code, § 4221)

Sec. 20-2.5. Same—Maintenance by lot owners.

The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or, if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas, save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto. (Ord. No. 1365, § A(2), 11-18-86)

Sec. 20-3. Same—Work to be performed by contract with city upon failure of abutting owner to proceed after notice; certificate of completion; lien.

If the work required by the notice specified in section 20-2 shall not be commenced within thirty (30) days after notice is given as aforesaid, and diligently and without interruption prosecuted to completion, the official may, under the authority of this section, proceed to do the work called for by the aforesaid notice, or enter into a contract in the name of the city with any suitable person, at the expense of the owner, tenant or occupant, after the specifications for doing of such work shall have been conspicuously posted by him in his office for two (2) days, inviting bids for doing such work, which bids shall be delivered to him at his office on or before the second day of such posting, and opened by him on the next day following the expiration of such two (2) days of posting, and the contract by him be awarded to the lowest bidder, if in the judgment of such official such lowest bid is reasonable. All of such bids shall be preserved in his office and open at all times after the letting of the contract to the inspection of all persons, and such owner, tenant or occupant shall be liable to pay such contract price. Such work shall be commenced within twenty-four (24) hours after the contract shall have been signed, and completed without delay to the satisfaction of the city official, and when so satisfactorily completed, the official shall make and deliver to such contractor a certificate to the effect that such work has been properly done by such contractor according to specifications, and that the charges for the same are reasonable and just, and that the official, has accepted the same. Such certificate of completion shall be recorded in a book kept for the purpose in the office of the city clerk, and when so recorded the sum to be paid shall be a lien.
CHAPTER 8 PEDDLERS AND SOLICITORS

PERMIT REQUIREMENTS, RELATED PROVISIONS, AND REGULATION OF PEDDLERS AND SOLICITORS

8-00 Legislative Findings
8-1 Peddlers/Solicitors --Defined.
8-2 Permit required.
8-3 Application for permit.
8-4 Contents of application.
8-5 Other information
8-6 Application fees.
8-7 Photograph required.
8-8 Fingerprints required.
8-9 Investigation--Character and business responsibility.
8-10 Permit and identification card to be carried on person.
8-11 Conditions and regulations.
8-12 Revocation of permit.
8-13 Appeals to city council.
8-14 Unlawful where "No Peddlers/Solicitors" sign posted.
8-15 Distribution of handbills--excluded.

8-00 LEGISLATIVE FINDINGS.

[Justice Brewer, Souter and Ginsburg have suggested that specific factual findings of crime, fraud etc. that the ordinance seeks to reduce. These Justices suggest these findings should be localized. Prior to adopting an ordinance limiting door-to-door solicitation or peddling, the City should consider adopting localized findings.]

8-1 PEDDLERS AND SOLICITORS DEFINED.

"Peddler" and/or "Solicitor" means any person who goes from house to house, or from place to place in the city selling or taking orders for, or offering to sell or take orders for goods, wares and merchandise for present or future delivery, or for services to be performed immediately or in the future, whether or not such person has, carries or exposes a sample of such goods, wares and merchandise, or not and whether or not he is collecting advance payments on such sales or not.

8-2 PERMIT REQUIRED.
It is unlawful for any person to act as a Peddler within the city without having first obtained a permit issued pursuant to this chapter.

8-3 APPLICATION FOR PERMIT.

Applicants for a permit under this chapter shall file with the finance officer an application in writing on a form to be prescribed by the finance officer.

8-4 CONTENTS OF APPLICATION.

The application shall contain the following information:

A. The permanent home address and full local address of the Peddler or Solicitor;

B. The name and address of the person, firm or corporation by whom the Peddler/Solicitor is employed;

C. The length of service of each Peddler/Solicitor with such employer;

D. The place of residence and nature of the employment of the Peddler/Solicitor with such employer during the last preceding year;

E. The nature or character of the goods, wares merchandise or services to be offered by the Peddler/Solicitor;

F. A personal description of the Peddler/Solicitor; including height, weight, eye color and hair color.

G. A statement as to any convictions of any crimes, misdemeanors, violations of municipal ordinances; and the date, the nature of the offense and penalty assessed therefor.

H. The length of time for which the right to do business is desired.

I. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed, and the proposed method of delivery.

J. Photographs pursuant to Section 8-7.

K. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

8-5 OTHER INFORMATION.
Such information shall be accompanied by such credentials and other evidence of good moral character and identity of each Peddler/Solicitor as may be reasonably required by the finance officer.

8-6 APPLICATION FEES.

A. The application fee, replacement application, and identification card fees shall be set by resolution.

B. Fees and investigations as used in this section refer solely to individuals and not to firms.

8-7 PHOTOGRAPHS REQUIRED.

Each application for a permit as required by this chapter must be accompanied by two prints of a recent photograph of the Peddler/Solicitor, which photographs shall not exceed two inches square in size and shall be full front views of the face and head only of such Peddler/Solicitor.

8-8 FINGERPRINTS REQUIRED.

At the time of making the application for a permit, each Peddler/Solicitor shall present him/herself at the office of the chief of police of the city for the purpose of being fingerprinted and supplying routine information required on the fingerprinting forms provided without expense by the city, including the physical characteristics of each person, identifying marks or scars, age, name, address and signature. Such fingerprint records are to be taken in triplicate and each individual so presenting him/herself is advised that the city reserves the right to retain one of such fingerprint records in its files for permanent safekeeping, and to send one such fingerprint record to the Federal Bureau of Investigation of the Department of Justice at Washington, D.C., and to the Criminal Investigation Department of the California Department of Justice at Sacramento, California, for the purpose of filing. No fingerprint records will be returned in the event the permit applied for is not issued or is subsequently suspended or revoked.

8-9 INVESTIGATION--CHARACTER AND BUSINESS RESPONSIBILITY.

The original copy of the application shall promptly be referred to the chief of police, who shall promptly make an investigation of the applicant's character and business responsibility. If the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application the police chief's disapproval and the reason therefor and return the application to the finance officer. The finance officer shall notify the applicant that the application is disapproved and that no permit will be issued. If the chief of police finds that the applicant's character and business responsibility are satisfactory, the police chief shall approve the application and return it to the finance officer, who shall promptly issue the permit and identification card. The City
may refuse to issue a permit to an applicant that has previously violated the City's regulations concerning peddling and/or soliciting.

8-10 PERMIT AND IDENTIFICATION CARD TO BE CARRIED ON PERSON.

Each Peddler/Solicitor issued a permit and identification card must be in possession of the permit and identification card at all times when engaged in the business so permit within the city. The Peddler/Solicitor must produce and show the permit and identification card on the demand of any person solicited or of any police officer or official of the city. No person issued a permit or an identification card shall alter, remove or obliterate any entry made upon such permit or card, or deface such permit or card in any way. Each permit and card shall be personal and not assignable or transferable, nor shall any permit or card be used by any person other than the permit or the person for whom the identification card is issued. The Peddler/Solicitor must wear the permit so that it is visible at all times.

8-11 CONDITIONS AND REGULATIONS.

The following conditions and regulations shall also apply to the exercises of the privileges granted by permits issued under the provisions of this chapter in addition to those set forth in other parts of this chapter or elsewhere in this code.

A. Shouting–calling wares. No person acting under authority of any permit issued under this chapter shall shout or call the person's wares in a loud, boisterous or unseemly manner, or to the disturbance of residents in the city.

B. Identification by comparing signature with that on permit. Every Peddler/Solicitor, upon the request of any police officer or official of the city, shall sign the Peddler/Solicitor's name for comparison with the signature upon the permit or card or the signature upon the permit application.

C. Order to be written in duplicate. Any person acting under authority of any permit issued under this chapter who solicits orders for future delivery shall write each order at least in duplicate, plainly stating the quantity of each article or commodity ordered, the price to be paid therefor, the total amount ordered and the amount to be paid on or after delivery. One copy of such order shall be given to the customer.

D. Every Peddler/Solicitor shall, upon request of any person solicited, provide his/her name, business address and telephone number and the name, business address and telephone number of the person, organization, or entity on whose behalf solicitation is being made.

8-12 REVOCATION OF PERMIT.

A. A permit issued under this chapter may be suspended or revoked by the chief of police for any of the following causes:
1. Fraud, misrepresentation or false statement contained in the application for permit;

2. Fraud, misrepresentation or false statement made in the course of carrying on the business as Peddler/Solicitor;

3. Any violation of this chapter.

4. Conviction of any crime or misdemeanor involving moral turpitude;

5. Conducting the business of soliciting or of canvassing in an lawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. This section shall be self-executing and the suspension or revocation shall be effective immediately. The city clerk shall give notice of the suspension or revocation of the permit and sufficient notice shall be given if mailed or delivered to the permittee at the permittee’s last known local address.

8-13 PERMIT -- APPEALS TO CITY COUNCIL.

In the event that any applicant or permittee desires to appeal from any order, revocation or other ruling of the finance officer, the chief of police or any other official of the city, made under the provisions of this chapter, such applicant or any other person aggrieved shall file written notice of such appeal with the city clerk and such matters shall be heard at the next regular meeting of the city council, at which time the city council shall hear and receive evidence, written and oral upon all matters involved. The decision of the city council shall be final upon all parties concerned.

8-14 PEDDLING/SOLICITING UNLAWFUL WHERE SIGN POSTED.

It is unlawful for any person described in Section 5.01.010 of this chapter to perform or attempt to perform the acts described in such section by ringing the doorbell or knocking at the door or otherwise calling attention to the person’s presence of or at any residence whereon a sign bearing the words “No Peddlers”, “No Solicitors” or words of similar import is painted or affixed so as to be exposed to public view, and no such person, described in Section 5.08.800 shall perform or attempt to perform any of the acts described in such section in any building, structure or place of business whereon or wherein a sign bearing the words “No Peddlers”, “No Solicitors” or words of similar import, is painted or affixed so as to be exposed to public view.

8-15 DISTRIBUTION OF HANDBILLS--EXCLUDED.

Nothing in this chapter shall prohibit persons from distributing handbills door-to-door within the city without a permit.
ARTICLE 6: ITINERANT VENDORS (ORDINANCE 2002-06)

301-60. Purpose

This Article is intended to regulate the activity of itinerant vendors. This use is a special privilege, not a matter of right, it is subject to a revocable permit and compliance with performance standards and conditions described herein.

The City recognizes the community benefits that can accrue from outdoor concessions in addition to regular retail and commercial activity that occurs in a permanent building. These benefits include: patron convenience, community ambiance, increased street activity, low-overhead business opportunities, and unique opportunities to serve special events, among others.

The City also recognizes of the concerns that can accompany such vending, including: unfair competition for traditional retail and commercial businesses, public health, public safety, aesthetics, and trespass, among others.

It is the purpose of this Article to recognize itinerant vending as a desirable and beneficial incidental use of certain public and private spaces, and to provide for such use under certain circumstances as long as such use is not inconsistent with the underlying dedication for public use where applicable, does not impede other primary uses, and does not interfere with the rights of adjoining property owners and the general public.

301-61. Definitions

Itinerant Vending. The conduct or housing of sales using a table, stand cart, vehicle, or other device rather than from a permanent building. An "Itinerant Vendor" may travel from place to place and vend along an approved route and/or within an approved area, or may vend from a single or several location(s) on a regular basis.

Point of Vending. "Point of Vending" is the location or approved route/area at/within which the vending occurs. Each location, or approved route/area, requires a separate Permit even if under the same ownership or management.

Stationary Vending. A "stationary" vendor vends from the same location(s) on a regular basis. Vending from any one location for more than 2 consecutive hours is stationary vending.

Vending. "Vending" means selling, offering for sale, or displaying or dispensing of any goods or merchandise for sale or purchase to the public from any carrying device, box, bag, stand, human-powered device (including but not limited to any pushcart, wagon, bicycle, tricycle, or other wheeled container), portable stand, or any other device used for carrying goods or merchandise. This includes hawking, operating noise-making devices, and any other activity or signage to attract attention to the vendor or the goods or merchandise. A vendor may be both stationary and itinerant depending on the vendor's method of operation. Examples of vending activity include but are not limited to hot dog carts/vehicles, flower carts/stands/sales, ice cream carts/vehicles, roadside sales, stationary food carts/vehicles, and similar activities.

Vendors. For the purposes of this Article, "vendors" are individuals or entities that engage in itinerant vending including both owners and operators.
301-62. Application Procedures

An Itinerant Vendors/Permit is required in order to vend pursuant to this Article. Each permit applicant shall provide the following:

(a) Completed application, including a written description of the proposed vending activity.
(b) Mailing address for notification.
(c) Legal names of vending business owner and/or operator.
(d) Proof of valid business license.
(e) Proof of valid health permit(s), if required by applicable law or regulation.
(f) Photocopy of valid form of identification for business owner and/or operator.
(g) Color photographs showing different views of the vending vehicle or device, and of the proposed location for vending. An applicant shall provide a site plan for all proposed stationary location(s) and a map of the proposed route/area of vending.
(h) Dimensioned sample or rendering of proposed signage.
(i) Non-refundable application fee.
(j) If an applicant proposes to vend from a single location for more than four consecutive hours at a time, the applicant must identify the location of an available restroom to be used by the vendor.
(k) Property-owner approval.
(l) An applicant with a stationary location(s) shall provide mailing labels for purposes of notification to all property owners/occupants immediately adjacent to the stationary location(s).

301-63. Itinerant Vendor Permit Issuance and Notification of Decision

An Itinerant Vendor Permit is an administrative permit issued by the Planning Division (Division) of the Community Development Department (Department) pursuant to the provisions of this Article. The Neighborhood Enhancement Program (NEP) of the Department and/or the Police Department shall have the authority to enforce the terms of the permit.

Upon acceptance of a properly filed application, the Division shall make a determination within 30 days of acceptance to approve, approve with conditions, or deny the application. Applicants shall receive written notice of the decision.

For stationary vending, the Division shall mail the notice to approve or conditionally approve to property owners and occupants immediately adjacent to each location. The notice shall include a description of the proposed vending activity, a map of the proposed location(s), and identification of a minimum 10-day comment period to provide comments to the Division. The notice shall specify that the approval or conditional approval has no force or effect until completion of the comment period, issuance of a final action, and expiration of the appeal period.
The Division shall consider any comments received in its final action on the application, and each commentator shall receive a notice of the final action on the project. The notice of final action shall identify appeal procedures.

301-64. Performance Standards

No person(s) may engage in vending in any location within the City of Citrus Heights unless the conduct of that activity meets each of the following criteria listed below, and unless the person is operating under and by the authority of a valid Vendor Permit (Permit).

The permit shall address, and the vendor shall comply with, the following items:

(a) General. The City may impose conditions on the Permit as it deems necessary for health and safety, and/or to mitigate the impact of vending on an area. This may include the imposition of additional conditions and/or stricter requirements than identified below.

(b) Shall Not Obstruct or Create Hazards. Vendors shall not obstruct vehicular traffic, bicycle traffic, sidewalk pedestrian traffic, or accessibility to vehicles parked adjacent to the curb, and shall not create public health or safety hazards.

(c) Hours of Operation. Vending shall be conducted within the hours of operation established in the Permit. Notwithstanding approved hours of operation, all activities are subject to the restrictions of the City’s Noise Ordinance requirements.

(d) Signage. No more than one sign is allowed associated with each Permit. The sign shall not exceed ten (10) square feet and shall be affixed to the vehicle or device from which the goods or merchandise are being vended.

(e) Number of Permits. Each point of vending shall require a separate Permit, even if multiple points of vending are under the same ownership or management.

(f) Business License. The vendor shall have a valid City business license.

(g) Health Permit. Vending of food, produce, or other edible items requires valid health or other permit(s) issued by the appropriate agency.

(h) Indemnification. As a condition of issuance, the vendor agrees to indemnify, hold harmless, and defend the City and its representatives against liability and/or loss arising from activities connected with and/or undertaken pursuant to the Permit. The City is not liable for any business loss, property loss, or other damage that may result from use of the Permit, or suspension or revocation of the Permit, and no vendor shall maintain any claim or action against the City, its officials, officers, employees, or agents on account of any suspension or revocation.

(i) Property Owners Approval. Permit applications must include the written approval of any property owner whose property will be used for vending. Vending on private property must comply with any development conditions imposed on the private property, and all requirements of the appropriate zoning category.

(j) Other Applicable Regulations. The vendor shall conform at all times with all applicable City and governmental requirements, including without limitation, the Americans With Disabilities Act, health and safety regulations, local zoning, and applicable redevelopment regulations.
(k) Term of Permit; Renewal. The maximum term of a Permit shall be for a one-year period. The Permit may be renewed subject to compliance with all terms and conditions of the Permit, the standards established in this section of the City Code, and payment of applicable fees. At the City's discretion the term of the Permit may be less than one year.

(l) Transferability. A Permit is not transferable to any entity or person and is valid only as to the original applicant.

(m) Proximity to Other Items. No vending may occur within ten (10) feet of a fire hydrant, fire escape, building entrance, bus stop, loading zone, handicapped parking space or access ramp, fire station driveway, or police station driveway. A greater distance or separation from other uses may be required, under the Permit, in order to preserve line-of-sight, or for other safety reasons. The vending shall not damage landscaped areas.

(n) Appearance and Storage. The vendor shall maintain the area within which vending activities occur in a clean, safe, sanitary, and dust-controlled condition. With the exception of approved stands, the vendor shall remove all evidence of vending and leave the site in a clean state at the close of each business day.

(o) Lighting. Vending may not occur after dark unless appropriate lighting is provided, or an exemption from this requirement is specifically granted as a part of the Permit due to the type of activity (e.g. one-time permit for itinerant vending at a special night-time event).

(p) Parking. Prior to issuance of any Permit, the City shall confirm that an acceptable area for customer parking exists, or must specifically exempt the vendor from this requirement due to the nature and/or location of the use. Parking for the vendor shall be specified pursuant to the permit. The vendor shall not indicate exclusive roadway parking or reserve any public parking area for the vendor's parking.

(q) Location On Particular Roadways. Vending may be restricted or prohibited along specific roadways, or portions thereof, which, as a result of limited parking, limited line-of-sight, traffic control impacts, high traffic flow, or other reasons specified, are determined to be unsafe for vending. This may include restrictions against operating during peak traffic hours, as determined by the City.

(r) Number of Vendors and/or Operators. The City may limit the number of vendors at any one location or within an area, or limit the number of operators, sales persons, or others engaged in the act of vending for any one owner or permittee at the requested or approved location. No vending activity may occur within the triangular visibility area described in Sections 12.12.010 or 12.12.020 of the Municipal Code, as shown below:
(s) Design and Set-up of Vehicle or Device for Vending. The width, length, and height of all vendor vehicles and devices shall be subject to review as a part of consideration of the Permit. The City's review shall include but not be limited to color, materials, and appearance of the vending vehicle or device; shade umbrellas; accessories (including ice chests and trash receptacles); and maneuvering necessary for set-up and takedown. Vending vehicles or devices shall be designed such that they add to the aesthetic value of the vicinity. A site plan of areas at which stationary vending will occur must be provided, and is subject to City discretionary review. The area of vending activity (excluding parking) shall be specified under the Permit and shall not generally exceed 200 square feet.

(t) Tables. Tables for use by customers shall generally be prohibited unless the vending is occurring in an area that is specifically designed for such purpose such as a plaza, park, or other public open space area with adequate restroom facilities, or if specifically required as a part of the Health Department conditions.

(u) Permit Display. Vendor permits and business licenses must be prominently displayed on the vehicle or device for vending, or if stationary, at the location of vending.

301-66. Exemptions

(a) Vendor permits are not required for the following activities:

(b) City-Sponsored Events. Farmers markets, crafts fairs, street fairs, and other special events approved and designated by the City. Vendor must have prior written approval of City.

(c) Deliveries. Delivery activities of any establishment with a fixed place of business, which only delivers its products, services, or goods to a specified address in response to a customer request, order, or invoice previously placed through that fixed place of business.

(d) Public Park Events. Organizations selling goods or merchandise on park property with prior written authorization from the Sunrise Recreation and Park District.

(e) Garage Sales. Garage sales are separately regulated by the City Code, and are not subject to this regulation.

(f) Door-to-Door Solicitation. Door-to-door solicitation in a residential area, except where an individual homeowner has posted a notice of “No Solicitation” or similar wording.

(g) Fundraisers. Temporary fundraising sales by non-profit organizations.

(h) Agricultural Products Grown On-site. The sale of agricultural products on the site where the product is grown.

(i) Mall Sales. The sale or offering for sale or distribution from interior private pedestrian circulation areas of shopping centers or malls of products to pedestrians who are traversing such areas or patrons of retail stores.

301-66. Prohibitions

(a) Vending is unlawful without a vending permit and a business license.

(b) Vending shall not be permitted in any roadway medians.
(c) Vending shall not be permitted in public rights-of-way.

(d) With the exception of food products, vending shall not be permitted in a Residential zone.

301-67. Denial; Suspension; Revocation

City staff may revoke or suspend a permit as an administrative action, for good cause or upon violation of any provision of this ordinance or the conditions of the Permit. Any person whose permit has been revoked or suspended shall receive in writing an explanation of such action by the Neighborhood Enhancement Program (NEP) Officer. Reasons for denial, suspension, and revocation include:

(a) Fraud or misrepresentation in the application for the Permit.

(b) Fraud or misrepresentation in the course of vending.

(c) Vending contrary to the conditions of the Permit and/or the regulations.

(d) Vending in such a manner as to create a public nuisance or to constitute a danger to the public.

The following factors shall be considered in determining whether a Permit should be suspended or revoked upon non-compliance with these regulations:

(a) Any prior citation for violation of these regulations previously received by the vendor.

(b) A previous suspension and/or revocation imposed on the vendor.

(c) Whether the vendor's Permit was subject to suspension or revocation and was not suspended or revoked.

(d) The seriousness of the violation or misrepresentation and the danger to the health and/or safety of the public represented by the vendor's misrepresentation, noncompliance and/or misconduct.

(e) Whether the condition subjecting the vendor to suspension or revocation is of a nature that can be or has been corrected.

(f) A vendor whose Permit is suspended or revoked, or whose application for a Permit is denied, may appeal the action to the Community Development Director or his/her designee within ten (10) days of the action by filing written notice of appeal with the Community Development Department. The appeal must include statements against the suspension, revocation, or denial, and must identify a proposed alternative outcome. A public hearing before the Community Development Director or his/her designee shall be scheduled within thirty (30) days to consider the appeal. Except in cases involving an immediate threat to public health, safety and welfare (as defined by the City), the permit will remain in effect pending the outcome of the appeal. At the hearing the permit holder or applicant will be afforded the opportunity to be heard and present facts and witnesses on his or her behalf. At that time or within 10 days thereafter, the Community Development Director or his/her designee shall make a final written decision.

301-68. Fees

Applicants for new or renewed Permits shall pay all appropriate fees pursuant to the City Fee Schedule.
301-69. Violations and Penalties

Any person who violates any provision of this Article is guilty of an infraction punishable by (1) a fine not to exceed fifty dollars ($50.00) for a first violation; (2) a fine not to exceed one hundred dollars ($100.00) for a second violation within one year of any prior violation; and (3) a fine not to exceed two hundred fifty dollars ($250.00) for the third and each successive violation within one year of any prior violation.
COUNCIL AGENDA: JULY 6, 2004

SUBJECT: PROPOSED CHANGES TO REGULATIONS CONCERNING SOLICITORS, PEDDLERS, AND ITINERANT VENDORS

SOURCE: CITY ATTORNEY

COMMENT: Pursuant to direction given by the City Council at the March 16, 2004 City Council meeting, the City Attorney’s office has been working with the Finance Department to develop modifications to the City’s current peddler, solicitor and itinerant vendor regulations. At that time, proposed changes were being developed in order to better regulate door-to-door sales. The City had also received requests from the Porterville Downtown Association to review how door-to-door operations, as well as street vendors, are regulated. At the meeting, Council stressed that it wanted violations to have strong consequences, including the revocation of the violator’s business license and, if possible, the inability for the violator to renew its license.

Staff has been reviewing all of the regulations in order to determine what changes may be appropriate. A summary of the proposed changes is provided below, and certain proposed revisions to the City’s regulations are attached.

Review of the City’s municipal code has revealed that there are multiple areas where other changes will be needed after additional Council direction is received, in order to ensure that the regulations are consistent. Regulations concerning peddling, soliciting, canvassing, and street vendors occur in Chapter 8 (soliciting and canvassing), Chapter 15 (business licenses and regulations), Chapter 20 (streets and sidewalks), and the City’s Zoning Ordinance.

PEDDLERS AND SOLICITORS (“DOOR-TO-DOOR”)

The City currently makes a distinction between those who sell goods for immediate delivery (“peddlers”) and those who sell goods for future delivery (“solicitors/canvassers”). Staff proposes to modify Chapter 8 of the Municipal Code to regulate both activities in the same manner. There are also differences with regard to the business license fees charged; however, these distinctions are proposed to remain unchanged. Chapter 8 currently requires that solicitors obtain a permit and provide identification information (including fingerprints) and references. The regulations also require a background investigation by the Chief of Police.
The provisions allow for revocation of the permit if the regulations are violated, with an appeal right to the City Council. Proposed modifications include 1) requiring that peddlers as well as solicitors obtain a permit; 2) requiring that photograph identification be displayed on each peddler/solicitor at all times; 3) placing certain restrictions on the manner in which the peddlers/solicitors conduct business (no unduly loud shouting or actions disturbing residents of the city, order forms in duplicate with a copy to the purchaser, provision of name/signature upon request); 4) prohibiting peddling/soliciting where “no solicitation/peddling” signs are posted; and 5) setting forth additional restrictions on reapplying for a permit where the permit was revoked due to noncompliance with the City’s regulations. These regulations will also specify that this chapter does not regulate the distribution of hand bills.

**ITINERANT VENDORS**

Itinerant (“Street”) Vendors are currently regulated under Chapter 15 and Chapter 20 and are treated the same as peddlers. Street vendors, as part of the business license application process, must provide certain identification information concerning the items to be sold, the type of conveyance/vehicle utilized, the proposed location for the activity, insurance evidence, and identification information that must be carried by the vendor. The current regulations are not clear concerning use of sidewalks and public right of way. Staff proposes to modify the current regulations by 1) clarifying that vendors are not allowed in the public right of way and must obtain written permission from property/business owners to utilize proposed locations; 2) requiring that itinerant vendors wear identification badges (with a photograph) at all times while engaging in the commercial activity; and 3) clarifying that violations of the regulations may result in revocation of the permit and may affect an applicant’s ability to obtain future permits. Regulations addressing these recommendations will then be drafted pursuant to Council’s direction. Additionally and/or in the alternative, the Council may want to consider additional regulations and a separate permit requirement, similar to what is proposed for peddlers and solicitors. An example of this type of regulation is embodied in the provisions of Citrus Heights’s Zoning Ordinance and is also attached. (Note, however, that Citrus Heights allows for location in the public right of way.)

**MISC. PROVISIONS**

Currently, the City exempts direct producers of meat or poultry, eggs, fruits and vegetables, etc. from the peddler provisions, and staff does not propose any change unless directed by Council. As noted, there are
many small changes that may be needed to various city regulations located throughout the Code in order to ensure consistency. In addition to the changes proposed above, the Council may want to consider modifying its regulations concerning begging, currently located in Chapter 18. The City can adopt “aggressive solicitation” provisions that can better regulate donation requests. The Finance Department is also developing comprehensive modifications (as well as housekeeping changes) to Chapter 15 affecting other areas of business, including but not limited to beauty salons, carnivals, circuses, and catalog and home party sales.

RECOMMENDATION: The City Attorney and staff make the following recommendations:

1) That the changes discussed above concerning solicitors, peddlers, and itinerant vendors be made, and any additional direction by Council be given at this time. A final draft of the ordinance will then be prepared for review on August 3, 2004.

2) That a public hearing be set on August 3, 2004, for the first reading of the Ordinance.

Attachment: 1) Draft ordinance provisions concerning solicitors and peddlers
2) Sample regulations concerning itinerant vendors
3) Draft provisions concerning “aggressive solicitations”
SUBJECT: UPDATE -- PROPOSED CHANGES TO REGULATIONS CONCERNING SOLICITORS, PEDDLERS, AND ITINERANT VENDORS

SOURCE: CITY ATTORNEY

COMMENT: Review of the City’s regulations concerning vendors and solicitors was originally requested by the Downtown Porterville Association due to its concerns regarding out-of-town vendors. At the July 6, 2004, City Council meeting, Council reviewed and gave direction concerning various proposed substantive modifications to the City’s vending and solicitation regulations.

Consequently, this office has been working to effect these changes. However, as has already been discussed, the vending/solicitation regulations are not contained within one chapter and appear throughout the municipal code (including Chapters 8, 15, 20, and the Zoning Ordinance). Since the July 6, 2004, meeting, further issues have been uncovered. For example, certain street vending activities require a conditional use permit as a special use under the City’s zoning ordinance. The Community Development Department has expressed concerns with the CUP requirement and would like to explore alternatives to this process. Additionally, there are several exemptions to the street vending regulations that Council may wish to explore and at the very least, require clarification (e.g. the “caterers” exemption should be more clearly defined). These issues need to be resolved before a full comprehensive ordinance can be presented.

As has already been discussed, it is very difficult to make very specific changes to the code without overhauling other areas, given the current status of our regulations. Given that this continues to take additional time and resources to sort out, and given that further issues have been uncovered involving policy questions concerning the City’s handling of itinerant and street vendors, I am requesting a study session be set concerning these issues. At that time, the Council can review an outline of the actual changes proposed thus far and the areas where policy questions need to be addressed.

RECOMMENDATION: That a Study Session be set for October 12, 2004, or other time as determined by the Council, to review the additional issues and provide direction.
AGGRESSIVE SOLICITATION

Chapter 18
Article IV. Aggressive Solicitation

18- Legislative findings.
18- Definitions.
18- Prohibited acts.
18- Penalties
18- Construction and severability.

18- LEGISLATIVE FINDINGS.

A. The city council finds that the increase in aggressive solicitation throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.

B. The city council also finds that solicitation at major intersections in the city and near freeway on and off-ramps poses a dangerous condition for the solicitor and motorists in the area.

C. Aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic. The city council further finds that the presence of individuals who solicit money from persons at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorists also find themselves confronted by persons seeking money who, without permission, wash their automobile windows at traffic intersections, despite explicit instructions by drivers not to do so. People driving or parking on city streets frequently find themselves faced with persons seeking money by offering to open car doors or locate parking spaces. Such activities carry with them an implicit threat to both persons and property.

D. The city council is enacting this chapter pursuant to its police power, as stated in Article XI, Section 7 of the California Constitution, in addition to the power set forth in Section 647(c) of the state of California Penal Code. This law is timely and appropriate because current laws and city regulations are insufficient to address the aforementioned problems.

E. The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying
certain kinds of solicitation that have become an unwelcome and overwhelming presence in the city.

18 -- DEFINITIONS.

As used in this chapter.

A. "Solicit", for the purposes of this chapter only, means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

B. "Aggressive manner" means and includes:

1. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

2. Following the person being solicited, if that conduct is: (I) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

3. Continuing to solicit within the immediate area of the person being solicited after the person has made a negative response, if continuing the solicitation is: (I) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

4. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Section _____________ of the __________________ Municipal Code, shall not constitute obstruction of pedestrian or vehicular traffic;

5. Intentionally or recklessly using obscene or abusive language or gestures: (I) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

6. Approaching the person being solicited in a manner that: (I) is intended to or
is likely to cause a reasonable person to fear imminent bodily harm or the
commission of a criminal act upon property in the person’s possession; or (ii)
is intended to or is reasonably likely to intimidate the person being solicited
into responding affirmatively to the solicitation.

C. “Automated teller machine” means a device, linked to a financial institution’s
account records, which is able to carry out transactions, including, but not limited
to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage
and loan payments.

D. “Automated teller machine facility” means the area comprised of one or more
automatic teller machines, and any adjacent space which is made available to
banking customers during and after regular banking hours.

E. “Bank” means any banking corporation, savings and loan association, or credit
union chartered under the laws of this state or the United States.

F. “Check cashing business” means any person duly permitted by the superintendent
of banks to engage in the business of cashing checks, drafts or money orders for
consideration pursuant to the provisions of the banking laws.

G. “Public area” means an area to which the public or a substantial group of persons
has access, and includes, but is not limited to, alleys, bridges, buildings, driveways,
parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general
public, and the doorways and entrances to buildings and dwellings, and the grounds
enclosing them.

18 - PROHIBITED ACTS.

It is unlawful for any person to solicit money or other things of value, or to solicit the sale
of goods or services:

A. In an aggressive manner in a public area;

B. In any public transportation vehicle, or bus station or stop;

C. Within fifteen feet to any entrance or exit of any bank or check cashing businesses
or within fifteen feet of any automated teller machine during the hours of operation
of such bank, automated teller machine or check cashing business without the
consent of the owner or other person legally in possession of such facilities. When
an automated teller machine is located within an automated teller machine facility,
such distance shall be measured from the entrance or exit to the automated teller
machine facility.

D. On private property if the owner, tenant, or lawful occupant has asked the person
not to solicit on the property, or has posted a sign clearly indicating that solicitations
are not welcome on the property; or

E. From any operator of a motor vehicle that is in traffic on a public street, including, but not limited to, major intersections in the city and near freeway on and off-ramps, whether in exchange for cleaning the vehicle’s windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.
SUBJECT: INTERPRETATION OF AMBIGUITY – MOBILE, TEMPORARY AND PERMANENT STRUCTURES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Over the past several months, City Staff has been presented with a variety of challenges with regard to non-standard building types. Several creative approaches have been proposed and research into these proposals has uncovered potential ambiguities or inconsistencies regarding more traditional non-standard approaches to development. Staff’s intent with regard to this item is to describe the range of activities existing or proposed, seek Council input in determining how to categorize some of the proposals. Staff also seeks to resolve uncertainties and inconsistencies either by resolution of the City Council or by receiving direction to amend the Municipal Code or Zoning Ordinance:

The uses under discussion are the following:

CATERING TRUCKS (TRAVELLING)

Although not well defined in the Municipal Code and Zoning Ordinance, for purposes of this discussion catering trucks should be considered to be self-propelled vehicles, registered with the Department of Motor Vehicles (DMV), and intended for the preparation and sale of food. The regulation of catering trucks with regular routes (or which are stationary for five days or less each month) falls under the Business License section of the Municipal Code. The City Attorney has been reviewing these regulations as a component of the review of the regulation of peddlers and solicitors. Under current regulations, a catering truck may establish a route with stops on private property (or on public streets in residential zones) with only a business license for review.

CATERING TRUCKS (STATIONARY)

In some cases, operators of catering trucks have requested permission to operate indefinitely from a fixed location. If the use will continue for more than five days, the Zoning Ordinance requires a Conditional Use Permit. Only a small number of such permits have been requested, and then, most typically in conjunction with existing businesses which provide paved parking areas, access to utilities and sanitary facilities, etc. It is likely that Staff would recommend full site improvements (curb, gutter, sidewalks, parking, landscaping, etc.) as a condition of approval for such a use on an otherwise undeveloped parcel. In some locations, Staff may recommend denial of such a Conditional Use Permit.
SEASONAL FOOD TRAILERS (HAWAIIAN ICE STANDS)

Staff has occasionally been asked to consider the temporary placement of trailers in shopping center parking lots for the sale of seasonal foods (such as Hawaiian ice). Such units are not self-propelled, but are registered by the DMV. Staff has treated such requests in the same manner as catering trucks, above. To date, no applications for Conditional Use Permits for such a use have been processed. When placed in an existing parking lot, Staff would expect to recommend conditions of approval limiting the duration of the use and ensuring that required parking was unobstructed.

TEMPORARY BUILDINGS (MODULAR OFFICES)

Occasionally, unusual circumstances will cause a business to need additional space for operations on a temporary basis while permanent solutions are being pursued. Chapter 7 of the Municipal Code gives City Council the authority to issue permits for temporary structures in cases of “business stress or emergency” or in other, similar circumstances. Such permits are typically issued for a period of one or two years. Continued requests for renewal have tended to lead to increased scrutiny and requests to expedite a permanent solution. The City Council has the authority to impose conditions of approval. Full site improvements are not typically required, however, compliance with ADA and Building Codes is required. If parking is available at the business, additional parking has not typically been required to accommodate the temporary building. Modular buildings are inspected for code compliance at the time and place of manufacture and receive a certificate from the International Conference of Building Officials (ICBO).

PRODUCE (STRAWBERRY) STANDS

Several local farmers have continued a long-standing practice of siting produce stands either at their farm fields or on otherwise underutilized properties during harvest seasons. Such stands are most typically transported to their location on trailers, and remain on the trailers throughout their use, which relieves them from compliance with Building Codes. As the stands are seen by many to be part of the fabric of the local farming culture, Planning staff has not taken an aggressive enforcement stance with such uses. However, they do appear to fall under the temporary structure section of the Municipal Code and should apply for permits from the City Council. If such a permit were requested, Staff would likely recommend full site improvements to be consistent with requirements that apply to other businesses.
CATERING TRAILERS (RETRACTABLE WHEEL)

Recently, a local businessman has presented two proposals to the Project Review Committee (PRC) for the installation of catering trailers on a permanent or semi-permanent basis in commercial zones. The intent is to use the trailers as drive-up kiosks for milk and coffee based drinks and related cold and hot foods. The trailers are manufactured with retractable wheels that can be elevated to leave the trailer flush to the ground. Unless they are attached to a permanent foundation, such trailers are not subject to most Building Code regulations, although some health code regulations apply to any business selling food.

SHIPPING CONTAINERS (SEA-TRAINS)

Several businesses have used, or asked to use, shipping containers as additional on-site storage. Some recycling businesses use shipping containers as their primary place of business. All shipping containers used for storage require building permits and must comply with Building Codes. However, when the containers are less than 400 square feet, and placed on a paved surface, they do not require a permanent foundation. Various fire codes apply to such units, limiting their placement in close proximity to property lines, buildings, or other shipping containers. The most extensive use of shipping containers is at the Wal-Mart store on Henderson Avenue. As many as 50 to 60 containers may be in use during the Holidays. During off-peak seasons, 30 or more containers are typically maintained on the site.

SEMI-TRUCK TRAILERS

Occasionally businesses will park semi-truck trailers on a site and use them for supplementary storage. In at least one case, a recycling business operates by parking a trailer on a developed commercial site each day and removes it each night. Again, trailers are regulated by the DMV and are not subject to Building Codes.

Staff will present a slide show at the City Council meeting showing examples of several of the above non-standard building types.

Among the items to consider are the following:

1) Under what circumstances should site improvements be required?
2) Is there a concern that temporary, mobile or other non-standard structures would have an inequitable advantage by artificially lowering operating expenses, avoiding improvement standards, property tax liabilities, utility impact fees, or other costs?

3) For which uses should business operators seek an amendment to an approved Design Overlay Site Review or Planned Development Specific Plan?

4) For which uses should business operators seek a “Temporary Structure Permit” and how does the requirement that they show a business stress or emergency apply?

5) What time limits are likely to be appropriate for the various types of use?

RECOMMENDATION: That the City Council review and discuss the above information and provide additional direction to Staff.