



A G E N D A

Meeting of the Scotts Valley City Council

Date: December 2, 2015

Time: 6:00 p.m.

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5602	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted 11-25-15 at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvalley.org .
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Elected Officials Dene Bustichi, Mayor Donna Lind, Vice Mayor Stephany E. Aguilar, Council Member Randy Johnson, Council Member Jim Reed, Council Member	City Staff Members Steve Ando, City Manager Kirsten Powell, City Attorney Corrie Kates, Community Dev Dir/Deputy City Mgr Scott Hamby, Public Works Director John Weiss, Chief of Police Tracy Ferrara, City Clerk
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Notice regarding City Council Meetings:

The City Council meets regularly on the 1st and 3rd Wednesday of each month at 6:00 pm in the City Hall Council Chambers located at 1 Civic Center Drive, Scotts Valley, CA 95066.

Agenda and Agenda Packet Materials:

The City Council agenda and the complete agenda packet are available for review by 5:00 pm the Friday before the Wednesday meeting on the Internet at the City's website: www.scottsvalley.org and in the lobby of City Hall at 1 Civic Center Drive, Scotts Valley, CA. Pursuant to Government Code §54957.5, materials related to an agenda item, submitted after distribution of the agenda packet, are available for public inspection in the lobby of City Hall during normal business hours, Monday-Friday, 8am-12 pm and 1-5 pm. In accordance with AB 1344, such documents will be posted on the City's website at www.scottsvalley.org.

Televised Meetings:

City Council meetings are cablecast "Live" on Community Television of Santa Cruz County on Comcast Channel 25.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

COMMITTEE REPORTS

(Council members are appointed to committees which are either City committees or committees dealing with other jurisdictions. This portion of the agenda allows the committee member to present oral or written reports to the Council regarding their committee assignments. It also allows the Council to make comments and give the committee member direction, as required.)

Interjurisdictional Committees:

✓	Criminal Justice Council	(Lind/Johnson)
✓	Transportation Commission	(Johnson/Lind)
✓	Metro Transit District Board	(Bustichi)
✓	County Integrated Waste Mgmt Local Task Force	(Lind/Hamby)
✓	City/School District Joint Committee	(Reed/Johnson)
✓	AMBAG	(Aguilar/Lind)
✓	LAFCO	(Lind)
✓	City Selection Committee	(Mayor)
✓	League of California Cities Delegate Program	(Aguilar)
✓	Hazardous Materials Advisory Commission	(Ron Whittle)
✓	Cultural Council	(Lind)
✓	Seniors Advisory Council	(Lind)
✓	Santa Margarita Ground Water Basin Advisory Committee	(Lind /Aguilar)
✓	Library Financing Authority/Joint Powers Boards	(Reed/Johnson)

Standing Local Committees:

✓	Traffic Safety Committee	(Lind/Aguilar)
✓	Economic Development	(Johnson/Bustichi)
✓	Affordable Housing	(Aguilar/Bustichi)
✓	Water Subcommittee	(Bustichi/Lind)
✓	Budget Subcommittee	(Mayor/Vice Mayor)
✓	Sign Subcommittee	(Aguilar/Lind)
✓	Green Building Permit Process Subcommittee	(Lind/Reed)
✓	ADA Accessibility Subcommittee	(Aguilar)

Project Specific Committees:

✓	Skypark Subcommittee	(Johnson/Bustichi)
✓	Gateway South Commercial	(Reed/Johnson)
✓	Library Construction Subcommittee	(Bustichi/Reed)
✓	Glenwood Trails Subcommittee	(Aguilar/Reed)

CITY MANAGER REPORT

PUBLIC COMMENT TIME

(This is the opportunity for individuals to make and/or submit written or oral comments to the Council on any items within the purview of the Council, which are **NOT** part of the Agenda. No action on the item may be taken, but the Council may request the matter be placed on a future agenda.)

ALTERATIONS TO CONSENT AGENDA

(Council can remove or add items to the Consent Agenda.)

CONSENT AGENDA

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any item may do so by raising their hand to be recognized by the Mayor.)

- A. Approve City Council meeting minutes of 11-18-15
- B. Approve check register – 11-20-15, 11-13-15
- C. Approve the 2014/2015 annual report of Development Impact Fees
- D. Approve Resolution No. 1911 approving the agreement to prefund other post-employment benefits and other related forms with the California Employers' Retirement Benefit Trust Fund through the California Public Employees Retirement System
- E. Approve new salary schedule for Recreation temporary employees, effective January 1, 2016
- F. Authorize recruitment of Building Inspector
- G. Approve Resolution No. 1914 urging the State of California to provide new funding for public transportation infrastructure

ALTERATIONS TO REGULAR AGENDA

(Council can remove or add items to the Regular Agenda.)

REGULAR AGENDA

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Mayor.)

- 1. Oral presentation on legislative update from Assembly Member Mark Stone
- 2. Oral presentation of annual report for the Santa Cruz City/County Library System
- 3. Consideration of first reading and introduction of Ordinance No. 188 adding Chapter 5.22 of Title 5 of the Scotts Valley Municipal Code requiring tobacco retailer licenses and amending Chapter 8.25 of the Scotts Valley Municipal Code to regulate the sale of tobacco products
(Police/Weiss)
- 4. Consider authorizing City staff to work with LAFCO on updating the sphere of influence boundaries
(Planning/Kates)
- 5. Future Council agenda items
(This portion of the Regular Agenda allows the Council to determine items to be placed on a future agenda and to choose a date, if so desired.)

CONVENE TO CLOSED SESSION

CLOSED SESSION

SUBJECT:

- (1) Conference with legal counsel regarding real property negotiations.
Legal Authority: Govt Code section 54956.8
Location/APN's: The City of Scotts Valley ocean outfall pipeline starting at the City's wastewater facility, APN 021-061-25 and through Hocus Pocus Park, APN 021-061-45 which runs along Whispering Pines Drive, to Estrella Drive, to Lockewood Lane to Graham Hill Road with turnouts located off of Sims Road and Deer Path Road onto APN 060-011-02, the Pasatiempo Golf Club
Staff Present: City Manager, City Attorney, Community Development Director/Deputy City Manager, Public Works Director

RECONVENE TO OPEN SESSION

REPORT ON ACTION TAKEN DURING CLOSED SESSION

ADJOURNMENT

The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a City Council meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the City Clerk's office at (831) 440-5602 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a City Council meeting be available in an alternative format consistent with a specific disability, please call the City Clerk's Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.

PROCEDURAL INFORMATION FOR THE PUBLIC

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN APPROVAL OF A RESOLUTION:

1. Move the Resolution number for approval.
2. Second the motion.
3. Vote by body, a roll call vote is not required.

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN INTRODUCTION/ADOPTION OF AN ORDINANCE:

1. Move the Ordinance number for introduction (or adoption).
2. Move the Ordinance be introduced by title only and waive the reading of the text.
3. Read the Ordinance title.
4. Second the motion.
5. Vote by body, a roll call vote is not required.

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN PUBLIC COMMENT/PUBLIC HEARINGS:

Unless otherwise determined by the presiding officer of the meeting:

1. Three minutes allowed per individual to speak.
2. Five minutes allowed per individual representing a group of three or more.



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MINUTES

Meeting of the Scotts Valley City Council

Date: November 18, 2015

POSTING:

The agenda was posted on 11-13-15
at City Hall, the SV Senior Center, and
the SV Library, by the City Clerk.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Vice Mayor Lind
Council Member Aguilar
Council Member Johnson
Council Member Reed

Interim City Manager Comstock
City Attorney Powell
Comm Dev Dir/Deputy City Mgr Kates
Public Wks Director Hamby
Police Chief Weiss
Police Lieutenant Walpole
City Clerk Ferrara

Absent:

Mayor Bustichi

City Manager Ando

COMMITTEE REPORTS

CM Aguilar reported that she attended a National League of Cities Convention in Nashville, Tennessee, on behalf of the League of California Cities and the City, where one of the speakers was Vice President Biden, who discussed funding and transportation issues.

VM Lind reported that she attended the Santa Margarita Groundwater Basin Advisory Committee meeting where they discussed climate change and how it affects drought.

CM Lind reported that the Criminal Justice Council met and received a presentation on Internet concerns and safety for teens that was presented by a Santa Cruz Police Department Detective. She reported that they also received a presentation on the safe disposal of drugs and sharps, which she asked PWD Hamby to update the Council on. She also reported that the local task force is looking into the recycling of styrofoam.

PWD Hamby reported that the County of Santa Cruz just approved the first and reading and introduction of an ordinance requiring the producers pharmaceuticals and sharps to bear the cost of collection, recycling, and proper disposal of those pharmaceuticals and sharps.

PC Weiss reported that he and VM Lind attended a retirement event for Watsonville Chief of Police, Manny Solano.

CITY MANAGER REPORT

None.

PUBLIC COMMENT

Wendy Brannan, SV Historical Society, announced that the Historical Society will be hosting a talk, with authors Colleen Meagher and Joan Martin, on the Golden Age of Women's Polo in Santa Cruz County, on Sunday, December 6 at 2:00 pm in the Scotts Valley City Council Chambers. She stated that there is no charge for admission, and refreshments and tours of the Scott House will be held after the event.

ALTERATIONS TO CONSENT AGENDA

M/S: Aguilar/Reed

To approve the Consent Agenda.

Carried 4/0/1 (AYES: Aguilar, Johnson, Lind, Reed; ABSENT: Bustichi)

Consent Agenda:

- A. Approve City Council meeting minutes of 11-4-15
- B. Approve check register – 11-6-15, 10-30-15
- C. Approve the following amendments to agreement for professional services for the Hacienda Drive Storm Drainage Project:
 - (1) First amendment to contract for professional services between the City of Scotts Valley and Mesiti-Miller Engineering
 - (2) Second amendment to contract for professional services between the City of Scotts Valley and Mesiti-Miller Engineering
- D. Approve renewal of American Red Cross Shelter Agreements for the Scotts Valley Senior Center and the Scotts Valley Community Center

ALTERATIONS TO REGULAR AGENDA

M/S: Aguilar/Reed

To approve the Regular Agenda.

Carried 4/0/1 (AYES: Aguilar, Johnson, Lind, Reed; ABSENT: Bustichi)

REGULAR AGENDA

1. Presentation of updated Emergency Preparedness Plan for the City of Scotts Valley

PL Walpole presented the written staff report and responded to questions from Council. He also thanked local contractor, Russ Patterson, for his pro bono work on updating and completing this plan.

Wendy Brannan, SV resident, spoke in support of the plan. She recommended that the City be sure that staffing and call-back schedules are in place to support the plan.

M/S: Aguilar/Johnson

To approve Resolution No. 1913, authorizing the approval, distribution, and use of the updated City of Scotts Valley's Emergency Operations Plan.

Carried 4/0/1 (AYES: Aguilar, Johnson, Lind, Reed; ABSENT: Bustichi)

2. Consider approval of project scope change for the Mt. Hermon Road/Scotts Valley Drive/Whispering Pines Drive intersection operations improvement

PWD Hamby presented the written staff report and responded to questions from Council. He stated that Joel Ricca, the City's contract City Engineer and Leo Trujillo, Principal Engineer at Hatch Mott MacDonald, were available for questions.

Leo Trujillo, Principal Engineer at Hatch Mott MacDonald, showed a video presentation to Council of the traffic flow and responded to questions from Council.

Wendy Brannan, SV resident, spoke in support of this project scope change.

M/S: Aguilar/Johnson

To approve a change in the scope of work to double length of the existing left turn pocket from 140 feet to 280 feet and add a third through lane on Mt. Hermon Road in lieu of adding the additional left turn lane onto Whispering Pines Drive.

Carried 4/0/1 (AYES: Aguilar, Johnson, Lind, Reed; ABSENT: Bustichi)

3. Future Council agenda items

None.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 6:48 p.m. to discuss the following items:

1. Pursuant to Government Code Section 54956.8, the City Council met in closed session to confer with their legal counsel regarding real property negotiations. Location/APN's: The City of Scotts Valley ocean outfall pipeline starting at the City's wastewater facility, APN 021-061-25 and through Hocus Pocus Park, APN 021-061-45 which runs along Whispering Pines Drive, to Estrella Drive, to Lockwood Lane to Graham Hill Road with turnouts located off of Sims Road and Deer Path Road onto APN 060-011-02, the Pasatiempo Golf Club

RECONVENE TO OPEN SESSION

The City Council reconvened to open session at 7:05 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Vice Mayor Lind announced that there was nothing to report.

ADJOURNMENT The meeting adjourned at 7:05 p.m.

Approved: _____
Donna Lind, Vice Mayor

Attest: _____
Tracy A. Ferrara, City Clerk

DATE: 12-2-2015

BANK	VENDOR	CHECK#	DATE	AMOUNT
BA	GENERAL CHECKING ACCOUNT			
000182	A SIGN ASAP	105949	11/20/15	898.50
001405	AFLAC-FLEX ONE	105950	11/20/15	2,901.94
001626	AGUILAR/STEPHANY	105951	11/20/15	301.80
001219	ALHAMBRA	105952	11/20/15	92.11
001219	ALHAMBRA	105953	11/20/15	104.31
003149	AQUATIC BIOASSAY &	105954	11/20/15	3,475.00
001670	AT &T	105955	11/20/15	1,941.47
000097	AT&T	105956	11/20/15	159.10
001822	BC LABORATORIES INC.	105957	11/20/15	414.00
001551	BEEEMER SHOP	105958	11/20/15	257.67
001477	BLISS/MARCIA	105959	11/20/15	1,136.00
000021	BOWMAN & WILLIAMS	105960	11/20/15	12,002.30
000018	BRINK'S TROPHY SHOPPE	105961	11/20/15	108.75
001385	CALIFORNIA PUBLIC EMPLOY	105962	11/20/15	120,364.76
001051	COASTAL EVERGREEN CORP	105963	11/20/15	850.00
002091	COMCAST	105964	11/20/15	234.14
003476	CORIX	105965	11/20/15	1,808.19
001906	COSTCO MEMBERSHIP	105966	11/20/15	275.00
001103	CREATIVE FORMS & CONCEPT	105967	11/20/15	279.19
003043	CSG CONSULTANTS, INC	105968	11/20/15	4,459.68
000207	DEPARTMENT OF JUSTICE	105969	11/20/15	148.00
003354	ELITE MARTIAL ARTS, INC	105970	11/20/15	97.30
000202	FEDERAL EXPRESS	105971	11/20/15	31.44
000375	FIRST ALARM SECURITY & P	105972	11/20/15	220.00
001042	GOLDEN GATE PETROLEUM	105973	11/20/15	3,247.18
003006	GRIFIN DDS/PHILIP T	105974	11/20/15	455.90
000057	HACH COMPANY	105975	11/20/15	282.14
001873	HARRIS/BUCK	105976	11/20/15	1,271.00
001424	HEDRICK DDS MS APC/JOHN	105977	11/20/15	465.50
001856	HUB INTERNATIONAL	105978	11/20/15	384.12
001841	IDEXX LABORATORIES, INC.	105979	11/20/15	1,313.42
003267	KEEFFE/LAUREL	105980	11/20/15	270.00
001992	KOSMONT COMPANIES, INC	105981	11/20/15	1,170.00
002032	KT MECHANICAL INC	105982	11/20/15	190.46
000332	LABOR READY INC	105983	11/20/15	1,132.32
001673	LINCOLN FINANCIAL GROUP	105984	11/20/15	1,072.84
003477	MANN/KRISTEN	105985	11/20/15	105.00
003403	MAR-KEN INTERNATIONAL PO	105986	11/20/15	260.00
000195	MESITI-MILLER ENGINEERIN	105987	11/20/15	3,137.00
003171	MICHALAK/GENE	105988	11/20/15	110.00
000967	MONTEREY BAY SYSTEMS	105989	11/20/15	1,080.13
001779	MUSICAL ME, INC	105990	11/20/15	2,126.40
001802	ONTRAC	105991	11/20/15	17.98
003291	PACIFIC CREDIT SERVICES	105992	11/20/15	16.00
001446	PEABODY DDS/GUY	105993	11/20/15	118.40
000102	PITNEY BOWES	105994	11/20/15	147.44
003117	PRIORITY 1 PUBLIC SAFETY	105995	11/20/15	655.32
003230	REDWOOD TOXICOLOGY LAB	105996	11/20/15	32.00

SCOTTS VALLEY ACCOUNTS PAYABLE
CITY OF SCOTTS VALLEY
11/20/2015 15:35:47
GL540R-V07.27 PAGE 3

Check Register

BANK	VENDOR	CHECK#	DATE	AMOUNT
REPORT TOTALS:				195,218.79

RECORDS PRINTED - 000148

SCOTTS VALLEY ACCOUNTS PAYABLE
CITY OF SCOTTS VALLEY
11/20/2015 15:35:48
GL060S-V07.27 RECAPPAGE

Check Register

GL540R

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
001	GENERAL	130,152.25
003	GAS TAX - SPECIAL STATE TRST	3,137.00
004	RECREATION	17,821.61
010	WASTEWATER OPERATIONS	18,849.43
011	TERTIARY TREATMENT PLANT	5,487.35
025	GENERAL TRUST	6,311.25
028	SENIOR CENTER	1,233.44
112	DENTAL INS INTERNAL SERV	1,382.10
123	COMMUNITY FACILITY CENTER	1,082.19
150	GENERAL CAPITAL IMPROVEMENTS	3,135.35
306	SUPPL LAW ENFORCEMENT SRVS	6,626.82
TOTAL ALL FUNDS		195,218.79

BANK RECAP:

BANK	NAME	DISBURSEMENTS
BA	GENERAL CHECKING ACCOUNT	195,218.79
TOTAL ALL BANKS		195,218.79

BANK	VENDOR	CHECK#	DATE	AMOUNT	
BA	GENERAL CHECKING ACCOUNT				
	000881 ALVAREZ INDUSTRIES INC.	105900	11/13/15	1,616.00	
	000620 ALVAREZ/TONY	105901	11/13/15	305.03	
	001670 AT &T	105902	11/13/15	188.00	
	.14955 BRANNAN/WENDY	105903	11/13/15	168.62	
	001566 BUSINESS WITH PLEASURE	105904	11/13/15	68.46	
	001216 C & N TRACTORS	105905	11/13/15	83.08	
	001017 C.W.E.A.	105906	11/13/15	164.00	
	000435 CATTERA/MARK F.	105907	11/13/15	225.00	
	002091 COMCAST	105908	11/13/15	153.15	
	002091 COMCAST	105909	11/13/15	267.95	
	000294 COUNTY TAX COLLECTOR	105910	11/13/15	426.84	
	000389 DASSEL'S PETROLEUM INC	105911	11/13/15	4,385.49	
	002046 DEPARTMENT OF TOXIC	105912	11/13/15	150.00	
	003298 DISCOVERY DOOR	105913	11/13/15	42.59	
	001362 DUNCAN AUTO TECH	105914	11/13/15	65.00	
	003277 IMPERIAL SPRINKLER SUPPL	105915	11/13/15	309.16	
	001308 JOHNSON DDS/BRETT	105916	11/13/15	89.60	
	003074 KATES/CORRIE	105917	11/13/15	1,367.30	
	003292 KIMLEY-HORN & ASSOCIATES	105918	11/13/15	6,065.33	
	003292 KIMLEY-HORN & ASSOCIATES	105919	11/13/15	26,234.00	
	003292 KIMLEY-HORN & ASSOCIATES	105920	11/13/15	7,636.10	
	003430 LAURIE/JERMEL	105921	11/13/15	13.16	
	000284 LOGAN & POWELL, LLP	105922	11/13/15	10,056.00	
	001648 MARCELLO & COMPANY	105923	11/13/15	9,500.00	
	000967 MONTEREY BAY SYSTEMS	105924	11/13/15	82.54	
	001418 MONTEREY REGIONAL	105925	11/13/15	4,694.70	
	003475 MORTON/DAVID	105926	11/13/15	3,980.00	
	000939 NATIONAL COMTEL NETWORK	105927	11/13/15	56.44	
	000323 NBS GOVERNMENT FINANCE G	105928	11/13/15	1,385.00	
	001988 O'REILLY AUTOMOTIVE, INC	105929	11/13/15	1,445.23	
	000101 PACIFIC GAS & ELECTRIC C	105930	11/13/15	162.72	
	000101 PACIFIC GAS & ELECTRIC C	105931	11/13/15	13.21	
	004061 PARA/SUSAN	105932	11/13/15	2,125.00	
	001857 PHOENIX GROUP	105933	11/13/15	5.50	
	000723 PIED PIPER INC./THE	105934	11/13/15	55.50	
	000134 S.V. WATER DISTRICT	105935	11/13/15	11,760.29	
	001883 S.W.R.C.B.	105936	11/13/15	7,441.00	
	000133 SCOTTS VALLEY SPRINKLER	105937	11/13/15	4.58	
	000138 SPORT ABOUT	105938	11/13/15	972.63	
	003474 SPRAYING SYSTEMS, CO.	105939	11/13/15	222.09	
	002053 STEPFORD	105940	11/13/15	489.65	
	001361 STEVENS DDS/JOHN A	105941	11/13/15	49.00	
	000882 SUPERIOR ALARM COMPANY	105942	11/13/15	978.00	
	000153 THOMSON REUTERS-WEST	105943	11/13/15	269.86	
	001366 U.S. BANCORP OFFICE	105944	11/13/15	342.03	
	001831 USA BLUE BOOK	105945	11/13/15	1,776.28	
	001625 YOSHIDA DDS/NOREEN	105946	11/13/15	220.80	
	002021 ZOOM	105947	11/13/15	274.74	
	GENERAL CHECKING ACCOUNT			108,386.65	***

SCOTTS VALLEY ACCOUNTS PAYABLE
CITY OF SCOTTS VALLEY
11/13/2015 13:12:53
GL540R-V07.27 PAGE 2

Check Register

BANK	VENDOR	CHECK#	DATE	AMOUNT
REPORT TOTALS:				108,386.65

RECORDS PRINTED - 000099

GL540R

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
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001	GENERAL	42,656.68
004	RECREATION	514.72
008	TRAFFIC IMPACT MITIGATION	4,963.47
010	WASTEWATER OPERATIONS	19,823.34
011	TERTIARY TREATMENT PLANT	301.25
023	SVRDA SUCCESSOR AGENCY	56.00
025	GENERAL TRUST	32,410.34
028	SENIOR CENTER	512.55
035	GREEN BUILDING FUNDING	458.16
077	SKYPARK MAINT ASSESS DIST	2,222.79
090	SV DRIVE A REDEMPTION	1,385.00
112	DENTAL INS INTERNAL SERV	359.40
123	COMMUNITY FACILITY CENTER	508.48
150	GENERAL CAPITAL IMPROVEMENTS	2,214.47
TOTAL ALL FUNDS		108,386.65

BANK RECAP:

BANK	NAME	DISBURSEMENTS
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BA	GENERAL CHECKING ACCOUNT	108,386.65
TOTAL ALL BANKS		108,386.65

City of Scotts Valley
INTEROFFICE MEMORANDUM

DATE: December 2, 2015
TO: Honorable Mayor and City Council
FROM: Steve Ando, City Manager
SUBJECT: **ANNUAL REPORT FOR DEVELOPMENT IMPACT FEES**

SUMMARY OF ISSUE

In compliance with Government Code Section 66006, attached is a report of Development Impact Fee Funds for the year ended June 30, 2015. This report reflects:

- 1. fund balances at the beginning of the fiscal year, July 1, 2014
- 2. impact fees received during the year,
- 3. grant revenues received during the year,
- 4. interest earned,
- 5. the amounts spent on projects during the year,
- 6. the percentage of the project expenditures funded with impact fees,
- 7. ending fund balances at June 30, 2015.

Each project for which costs were incurred is listed. All projects on the list have previously been approved by the City Council as impact fee projects.

FISCAL IMPACT

The Report shows that the City had \$4,270,502 in impact fee fund balances at June 30, 2015.

STAFF RECOMMENDATION

That Council accept the 2014 / 2015 Annual Report of Development Impact Fees.

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CITY OF SCOTTS VALLEY
REPORT OF DEVELOPMENT IMPACT FEE FUNDS
FOR THE YEAR ENDED JUNE 30, 2015

FUND NO.	FUND NAME & PROJECT DESCRIPTION	FUND BALANCE 7/1/2014	2014 / 2015 FISCAL YEAR					% OF COSTS PAID BY IMPACT FEES	FUND BALANCE 6/30/2015
			IMPACT FEES	GRANTS	INTEREST EARNINGS	COST DETAIL	TOTAL COSTS		
7	STORM DRAINAGE FACILITIES Vine Hill/Tabor Rd Bike/Ped Improvement	\$ 77,607	\$ 5,214		\$ 87	(67,507)	\$ (67,507)	100%	\$ 15,401
8	STREETS & THOROUGHFARES City-wide Traffic Plan Sign Program	1,373,254	42,763		1,550	(146,707) (54,744)	(201,451)	100% 100%	1,216,116
9	PARKS & RECREATION FACILITIES Vine Hill/Tabor Rd Bike/Ped Improvement Shugart Park Improvement - Bridge/Path Skypark Shade Structure Siltanen Park Improvements ADA Access Ramps Community Center Monument Sign Bocce Ball Court Improvements Hocus Pocus Grills Pump Track	589,931	146,996		769	(105,000) (99,256) (23,244) (18,114) (15,835) (8,894) (1,758) (1,443) (1,000)	(274,544)	100% 100% 100% 100% 100% 100% 100% 100%	463,152
12	WASTEWATER TREATMENT FACILITIES Variable Speed Blower Sludge Thickening Unit	2,275,963	78,371		1,776	(205,730) (47,377)	(253,107)	100% 100%	2,103,003
21	GENERAL FACILITIES & EQUIPMENT Maintenance Vehicle	90,733	7,659		81	(27,970)	(27,970)	100%	70,503
27	LAW ENFORCEMENT FACILITIES & EQUIPMENT MacDorsa Tank / Cadillac Radio Site Voice Logging System Records Management System	201,219	10,630	\$ 14,664	220	(36,514) (12,067) (937)	(49,518)	93% 0% 100%	177,215
86	LIBRARY FACILITIES Monument Sign Display Case	223,394	13,083		237	(10,604) (998)	(11,602)	100% 100%	225,112
GRAND TOTALS		<u>\$ 4,832,101</u>	<u>\$ 304,716</u>	<u>\$ 14,664</u>	<u>\$ 4,720</u>	<u>\$ (885,699)</u>	<u>\$ (885,699)</u>		<u>\$ 4,270,502</u>

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: December 2, 2015
TO: Honorable Mayor and City Council
FROM: Steve Ando, City Manager
SUBJECT: **Approval of Participating in the California Employers' Retiree Benefit Trust Program**

SUMMARY OF ISSUE

At your August 5, 2015, meeting, Council approved setting certain reserve balances as a goal for the City. One of those reserve balances was for the City's retiree medical benefit program. CalPERS has established a program called the California Employers' Retiree Benefit Trust (CERBT) in which employers can participate and prefund their retiree medical benefit program obligations. Setting aside funds into this trust will earn interest and thus decrease the amount needed to be deposited by the City.

There is no required annual funding amount. The City can make deposits into the Trust as funds become available to the City. If funds are deposited, they can be withdrawn in later years to assist with retiree health payments if necessitated by the City's budget. Having the City approved to participate in the CERBT now will allow deposits to be made timely when funds do become available.

CERBT has over 450 participants including cities, counties, school districts, and special districts. Currently they have assets of \$4.6 billion. It is administered by California Public Employee Retirement System (CalPERS).

FISCAL IMPACT

Deposits into the CERBT will earn interest thus decreasing the amount to be deposited by the City in future years.

STAFF RECOMMENDATION

That Council approve Resolution No. 1911 approving the forms necessary for the City to participate in the CERBT and authorize staff to file the necessary forms with CalPERS.

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RESOLUTION NO. 1911

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY APPROVING THE AGREEMENT TO PREFUND OTHER POST-EMPLOYMENT BENEFITS AND OTHER RELATED FORMS WITH THE CALIFORNIA EMPLOYERS' RETIREMENT BENEFIT TRUST FUND THROUGH THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM

WHEREAS, the California Public Employees Retirement System has established the California Employers' Retirement Benefit Trust Fund (CERBT) to prefund future retiree health benefit costs; and

WHEREAS, the City of Scotts Valley is desirous of participating in the CERBT.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Scotts Valley that the forms listed below and attached are hereby adopted.

- Agreement and Election to Prefund Other Post Employment Benefits Through CalPERS
- Certification of OPEB Funding Policy & GASB 43/45 Reporting Compliance
- Delegation of Authority to Request Disbursements
- Certification of OPEB Actuarial Information
- Summary of Actuarial Information Required for CalPERS Financial Statements

This resolution was passed and adopted on the 2nd day of December, 2015, at a duly held regular meeting of the City Council of the City of Scotts Valley by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Approved: _____
Dene Bustichi, Mayor

Attest: _____
Tracy Ferrara, City Clerk

CALIFORNIA EMPLOYERS' RETIREE BENEFIT TRUST PROGRAM ("CERBT")

**AGREEMENT AND ELECTION
OF**

(NAME OF EMPLOYER)

**TO PREFUND OTHER POST EMPLOYMENT
BENEFITS THROUGH CalPERS**

WHEREAS (1) Government Code Section 22940 establishes in the State Treasury the Annuitants' Health Care Coverage Fund for the prefunding of health care coverage for annuitants (Prefunding Plan); and

WHEREAS (2) The California Public Employees' Retirement System (CalPERS) Board of Administration (Board) has sole and exclusive control and power over the administration and investment of the Prefunding Plan (sometimes also referred to as CERBT), the purposes of which include, but are not limited to (i) receiving contributions from participating employers and establishing separate Employer Prefunding Accounts in the Prefunding Plan for the performance of an essential governmental function (ii) investing contributed amounts and income thereon, if any, in order to receive yield on the funds and (iii) disbursing contributed amounts and income thereon, if any, to pay for costs of administration of the Prefunding Plan and to pay for health care costs or other post employment benefits in accordance with the terms of participating employers' plans; and

WHEREAS (3) _____
(NAME OF EMPLOYER)

(Employer) desires to participate in the Prefunding Plan upon the terms and conditions set by the Board and as set forth herein; and

WHEREAS (4) Employer may participate in the Prefunding Plan upon (i) approval by the Board and (ii) filing a duly adopted and executed Agreement and Election to Prefund Other Post Employment Benefits (Agreement) as provided in the terms and conditions of the Agreement; and

WHEREAS (5) The Prefunding Plan is a trust fund that is intended to perform an essential governmental function within the meaning of Section 115 of the Internal Revenue Code as an agent multiple-employer plan as defined in Governmental Accounting Standards Board (GASB) Statement No. 43 consisting of an aggregation of single-employer plans, with pooled administrative and investment functions;

NOW, THEREFORE, BE IT RESOLVED THAT EMPLOYER HEREBY MAKES THE FOLLOWING REPRESENTATION AND WARRANTY AND THAT THE BOARD AND EMPLOYER AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

A. Representation and Warranty

Employer represents and warrants that it is a political subdivision of the State of California or an entity whose income is excluded from gross income under Section 115 (1) of the Internal Revenue Code.

B. Adoption and Approval of the Agreement; Effective Date; Amendment

(1) Employer's governing body shall elect to participate in the Prefunding Plan by adopting this Agreement and filing with the CalPERS Board a true and correct original or certified copy of this Agreement as follows:

Filing by mail, send to: CalPERS
 Affiliate Program Services Division
 CERBT (OPEB)
 P.O. Box 1494
 Sacramento, CA 95812-1494

Filing in person, deliver to: CalPERS Mailroom
 Affiliate Program Services Division
 CERBT (OPEB)
 400 Q Street
 Sacramento, CA 95811

(2) Upon receipt of the executed Agreement, and after approval by the Board, the Board shall fix an effective date and shall promptly notify Employer of the effective date of the Agreement.

(3) The terms of this Agreement may be amended only in writing upon the agreement of both CalPERS and Employer, except as otherwise provided herein. Any such amendment or modification to this Agreement shall be adopted and executed in the same manner as required for the Agreement. Upon receipt of the executed amendment or modification, the Board shall fix the effective date of the amendment or modification.

(4) The Board shall institute such procedures and processes as it deems necessary to administer the Prefunding Plan, to carry out the purposes of this Agreement, and to maintain the tax exempt status of the Prefunding Plan. Employer agrees to follow such procedures and processes.

C. Other Post Employment Benefits (OPEB) Cost Reports and Employer Contributions

(1) Employer shall provide to the Board an OPEB cost report on the basis of the actuarial assumptions and methods prescribed by the Board. Such report shall be for the Board's use in financial reporting, and shall be prepared at least as often as the minimum frequency required by GASB 43. This OPEB cost report may be prepared as an actuarial valuation report or, if the employer is qualified under GASB 45 and 57, may be prepared as an Alternative Measurement Method (AMM) report.

- (a) Unless qualified under GASB 45 and 57 to provide an AMM report, Employer shall provide to the Board an actuarial valuation report. Such report shall be for the Board's use in financial reporting, and shall be prepared at least as often as the minimum frequency required by GASB 43 and 57, and shall be:
 - 1) prepared and signed by a Fellow or Associate of the Society of Actuaries who is also a Member of the American Academy of Actuaries or a person with equivalent qualifications acceptable to the Board;
 - 2) prepared in accordance with generally accepted actuarial practice and GASB 43, 45 and 57; and,
 - 3) provided to the Board prior to the Board's acceptance of contributions for the valuation period or as otherwise required by the Board.
- (b) If qualified under GASB 45 and 57, Employer may provide to the Board an AMM report. Such report shall be for the Board's use in financial reporting, shall be prepared at least as often as the minimum frequency required by GASB 43 and 57, and shall be:
 - 1) affirmed by Employer's external auditor, or by a Fellow or Associate of the Society of Actuaries who is also a Member of the American Academy of Actuaries or a person with equivalent qualifications acceptable to the Board, to be consistent with the AMM process described in GASB 45;
 - 2) prepared in accordance with GASB 43, 45, and 57; and,
 - 3) provided to the Board prior to the Board's acceptance of contributions for the valuation period or as otherwise required by the Board.

(2) The Board may reject any OPEB cost report submitted to it, but shall not unreasonably do so. In the event that the Board determines, in its sole discretion, that the OPEB cost report is not suitable for use in the Board's financial statements or if Employer fails to provide a required OPEB cost report, the Board may obtain, at

Employer's expense, an OPEB cost report that meets the Board's financial reporting needs. The Board may recover from Employer the cost of obtaining such OPEB cost report by billing and collecting from Employer or by deducting the amount from Employer's account in the Prefunding Plan.

(3) Employer shall notify the Board of the amount and time of contributions which contributions shall be made in the manner established by the Board.

(4) Employer contributions to the Prefunding Plan may be limited to the amount necessary to fully fund Employer's actuarial present value of total projected benefits, as supported by the OPEB cost report acceptable to the Board. As used throughout this document, the meaning of the term "actuarial present value of total projected benefits" is as defined in GASB Statement No. 45. If Employer's contribution causes its assets in the Prefunding Plan to exceed the amount required to fully fund the actuarial present value of total projected benefits, the Board may refuse to accept the contribution.

(5) No contributions are required. If an employer elects to contribute then the contribution amount should not be less than \$5000 or the employer's annual required contribution (ARC), whichever amount is lower. Contributions can be made at any time following the seventh day after the effective date of the Agreement provided that Employer has first complied with the requirements of Paragraph C.

D. Administration of Accounts, Investments, Allocation of Income

(1) The Board has established the Prefunding Plan as an agent plan consisting of an aggregation of single-employer plans, with pooled administrative and investment functions, under the terms of which separate accounts will be maintained for each employer so that Employer's assets will provide benefits only under employer's plan.

(2) All Employer contributions and assets attributable to Employer contributions shall be separately accounted for in the Prefunding Plan (Employer's Prefunding Account).

(3) Employer's Prefunding Account assets may be aggregated with prefunding account assets of other employers and may be co-invested by the Board in any asset classes appropriate for a Section 115 Trust.

(4) The Board may deduct the costs of administration of the Prefunding Plan from the investment income or Employer's Prefunding Account in a manner determined by the Board.

(5) Investment income shall be allocated among employers and posted to Employer's Prefunding Account as determined by the Board but no less frequently than annually.

(6) If Employer's assets in the Prefunding Plan exceed the amount required to fully fund the actuarial present value of total projected benefits, the Board, in compliance with applicable accounting and legal requirements, may return such excess to Employer.

E. Reports and Statements

- (1) Employer shall submit with each contribution a contribution report in the form and containing the information prescribed by the Board.
- (2) The Board shall prepare and provide a statement of Employer's Prefunding Account at least annually reflecting the balance in Employer's Prefunding Account, contributions made during the period and income allocated during the period, and such other information as the Board determines.

F. Disbursements

- (1) Employer may receive disbursements not to exceed the annual premium and other costs of post employment healthcare benefits and other post employment benefits as defined in GASB 43.
- (2) Employer shall notify CalPERS in writing in the manner specified by CalPERS of the persons authorized to request disbursements from the Prefunding Plan on behalf of Employer.
- (3) Employer's request for disbursement shall be in writing signed by Employer's authorized representative, in accordance with procedures established by the Board. The Board may require that Employer certify or otherwise establish that the monies will be used for the purposes of the Prefunding Plan.
- (4) Requests for disbursements that satisfy the requirements of paragraphs (2) and (3) will be processed monthly.
- (5) CalPERS shall not be liable for amounts disbursed in error if it has acted upon the written instruction of an individual authorized by Employer to request disbursements. In the event of any other erroneous disbursement, the extent of CalPERS' liability shall be the actual dollar amount of the disbursement, plus interest at the actual earnings rate but not less than zero.
- (6) No disbursement shall be made from the Prefunding Plan which exceeds the balance in Employer's Prefunding Account.

G. Costs of Administration

Employer shall pay its share of the costs of administration of the Prefunding Plan, as determined by the Board.

H. Termination of Employer Participation in Prefunding Plan

- (1) The Board may terminate Employer's participation in the Prefunding Plan if:

- (a) Employer gives written notice to the Board of its election to terminate;
- (b) The Board finds that Employer fails to satisfy the terms and conditions of this Agreement or of the Board's rules or regulations.

(2) If Employer's participation in the Prefunding Plan terminates for any of the foregoing reasons, all assets in Employer's Prefunding Account shall remain in the Prefunding Plan, except as otherwise provided below, and shall continue to be invested and accrue income as provided in Paragraph D.

(3) After Employer's participation in the Prefunding Plan terminates, Employer may not make contributions to the Prefunding Plan.

(4) After Employer's participation in the Prefunding Plan terminates, disbursements from Employer's Prefunding Account may continue upon Employer's instruction or otherwise in accordance with the terms of this Agreement.

(5) After the Employer's participation in the Prefunding Plan terminates, the governing body of the Employer may request either:

- (a) A trustee to trustee transfer of the assets in Employer's Prefunding Account; provided that the Board shall have no obligation to make such transfer unless the Board determines that the transfer will satisfy applicable requirements of the Internal Revenue Code, other law and accounting standards, and the Board's fiduciary duties. If the Board determines that the transfer will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the transfer. The amount to be transferred shall be the amount in the Employer's Prefunding Account as of the date of the transfer (the "transfer date") and shall include investment earnings up to an investment earnings allocation date preceding the transfer date. In no event shall the investment earnings allocation date precede the transfer date by more than 150 days.
- (b) A disbursement of the assets in Employer's Prefunding Account; provided that the Board shall have no obligation to make such disbursement unless the Board determines that, in compliance with the Internal Revenue Code, other law and accounting standards, and the Board's fiduciary duties, all of Employer's obligations for payment of post-employment health care benefits and other post-employment benefits and reasonable administrative costs of the Board have been satisfied. If the Board determines that the disbursement will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the disbursement. The amount to be disbursed shall be the amount in the Employer's Prefunding Account as of the date of the disbursement (the "disbursement date") and shall include investment earnings up to an investment earnings allocation date

preceding the disbursement date. In no event shall the investment earnings allocation date precede the disbursement date by more than 150 days.

(6) After Employer's participation in the Prefunding Plan terminates and at such time that no assets remain in Employer's Prefunding Account, this Agreement shall terminate.

(7) If, for any reason, the Board terminates the Prefunding Plan, the assets in Employer's Prefunding Account shall be paid to Employer after retention of (i) amounts sufficient to pay post employment health care benefits and other post employment benefits to annuitants for current and future annuitants described by the employer's current substantive plan (as defined in GASB 43), and (ii) amounts sufficient to pay reasonable administrative costs of the Board.

(8) If Employer ceases to exist but Employer's Prefunding Plan continues to exist and if no provision has been made by Employer for ongoing payments to pay post employment health care benefits and other post employment benefits to annuitants for current and future annuitants, the Board is authorized to and shall appoint a third party administrator to carry out Employer's Prefunding Plan. Any and all costs associated with such appointment shall be paid from the assets attributable to contributions by Employer.

(9) If Employer should breach the representation and warranty set forth in Paragraph A., the Board shall take whatever action it deems necessary to preserve the tax-exempt status of the Prefunding Plan.

I. General Provisions

(1) Books and Records.

Employer shall keep accurate books and records connected with the performance of this Agreement. Employer shall ensure that books and records of subcontractors, suppliers, and other providers shall also be accurately maintained. Such books and records shall be kept in a secure location at the Employer's office(s) and shall be available for inspection and copying by CalPERS and its representatives.

(2) Audit.

- (a) During and for three years after the term of this Agreement, Employer shall permit the Bureau of State Audits, CalPERS, and its authorized representatives, and such consultants and specialists as needed, at all reasonable times during normal business hours to inspect and copy, at the expense of CalPERS, books and records of Employer relating to its performance of this Agreement.
- (b) Employer shall be subject to examination and audit by the Bureau of State Audits, CalPERS, and its authorized representatives, and such

consultants and specialists as needed, during the term of this Agreement and for three years after final payment under this Agreement. Any examination or audit shall be confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement. Employer shall cooperate fully with the Bureau of State Audits, CalPERS, and its authorized representatives, and such consultants and specialists as needed, in connection with any examination or audit. All adjustments, payments, and/or reimbursements determined to be necessary by any examination or audit shall be made promptly by the appropriate party.

(3) Notice.

- (a) Any notice, approval, or other communication required or permitted under this Agreement will be given in the English language and will be deemed received as follows:
1. Personal delivery. When personally delivered to the recipient. Notice is effective on delivery.
 2. First Class Mail. When mailed first class to the last address of the recipient known to the party giving notice. Notice is effective three delivery days after deposit in a United States Postal Service office or mailbox.
 3. Certified mail. When mailed certified mail, return receipt requested. Notice is effective on receipt, if delivery is confirmed by a return receipt.
 4. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, Notice is effective on delivery, if delivery is confirmed by the delivery service.
 5. Telex or Facsimile Transmission. When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice. Notice is effective on receipt, provided that (i) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (ii) the receiving party delivers a written confirmation of receipt. Any notice given by telex or fax shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a nonbusiness day.
 6. E-mail transmission. When sent by e-mail using software that provides unmodifiable proof (i) that the message was sent, (ii) that the message was delivered to the recipient's information processing system, and (iii) of the time and date the message was delivered to

the recipient along with a verifiable electronic record of the exact content of the message sent.

Addresses for the purpose of giving notice are as shown in Paragraph B.(1) of this Agreement.

- (b) Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- (c) Any party may change its address, telex, fax number, or e-mail address by giving the other party notice of the change in any manner permitted by this Agreement.
- (d) All notices, requests, demands, amendments, modifications or other communications under this Agreement shall be in writing. Notice shall be sufficient for all such purposes if personally delivered, sent by first class, registered or certified mail, return receipt requested, delivery by courier with receipt of delivery, facsimile transmission with written confirmation of receipt by recipient, or e-mail delivery with verifiable and unmodifiable proof of content and time and date of sending by sender and delivery to recipient. Notice is effective on confirmed receipt by recipient or 3 business days after sending, whichever is sooner.

(4) Modification

This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by the party to be charged.

(5) Survival

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to be a part of their Agreement shall survive the termination of this Agreement until such time as all amounts in Employer's Prefunding Account have been disbursed.

(6) Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

(7) Necessary Acts, Further Assurances

The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

A majority vote of Employer's Governing Body at a public meeting held on the _____ day of the month of _____ in the year _____, authorized entering into this Agreement.

Signature of the Presiding Officer: _____

Printed Name of the Presiding Officer: _____

Name of Governing Body: _____

Name of Employer: _____

Date: _____

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
JOHN SWEDENSKY
AFFILIATE PROGRAM SERVICES DIVISION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

To be completed by CalPERS

The effective date of this Agreement is: _____



CERTIFICATION OF OPEB FUNDING POLICY & GASB 43/45 REPORTING COMPLIANCE

SECTION I: Asset Allocation Strategy Selection

As the employer, I certify that my agency chooses the following asset allocation strategy

Select one Asset Allocation Strategy

<u>Asset Allocation Strategy</u>	<u>Long-Term Expected Rate of Return</u>
Strategy 1	7.28%
Strategy 2	6.73%
Strategy 3	6.12%

SECTION II: ARC Funding

As the employer, I certify that our funding policy is to contribute consistently an amount that is equal to (select one):

Full ARC Funding:

100 % of the ARC as determined in our OPEB valuation (or AMM) dated _____, 20____, which used an actuarial Discount Rate of _____%

Partial ARC Funding:

- ☐ _____% of the ARC as determined in our OPEB valuation (or AMM if it applies) dated _____, 20____ which used a blended actuarial Discount Rate of _____%
- ☐ We will contribute to the trust using an approach not directly related to the ARC (please describe your funding approach and how it relates to the discount rate assumption in your OPEB valuation (or AMM) dated _____, 20____ which used a blended actuarial Discount Rate of _____%

CERTIFICATION OF OPEB FUNDING POLICY & GASB 43/45 REPORTING COMPLIANCE

SECTION III: ARC Contribution Method

We plan to contribute toward the ARC in the following manner (select one):

- ☐ Contribute our full ARC payments to the trust and seek reimbursements for Pay-go costs
- ☐ Contribute our ARC payments to the trust net of Pay-go costs and not seek reimbursements (ARC minus Pay-go = Trust Contribution)
- ☐ Other (Please describe):

SECTION IV: Years of ARC Coverage

This OPEB valuation provides ARC amounts for the following periods:

(ARC dates should correspond with Item No. 10.0 in Summary of Actuarial Information)

First Year: From _____, 20____ through _____, 20____.
Second Year: From _____, 20____ through _____, 20____.

CERTIFICATION OF OPEB FUNDING POLICY & GASB 43/45 REPORTING COMPLIANCE

We understand that we must obtain an actuarial valuation (or AMM if applicable) on at least a biennial basis.

We understand that we will be asked to provide accounting information to CalPERS as required in order to facilitate CalPERS compliance with GASB 43, 45 and 57 reporting requirements and we agree to make any information requested available to CalPERS on a timely basis.

We understand that CalPERS will provide us with our Statement of Plan Net Assets and our Statement of Changes in Plan Net Assets, which can be used to prepare our GASB 45 reporting. CalPERS will report aggregated GASB 43 information pertaining to the Funded Status and Funding Progress.

Date of OPEB Valuation (or AMM if it applies)

Name of Employer

Printed Name and Title of Person Signing the Form

Signature

Date

Designated Employer Contact Name for GASB Reporting

Phone #

Email Address

CERTIFICATION OF OPEB FUNDING POLICY & GASB 43/45 REPORTING COMPLIANCE

Instructions to complete the form

SECTION I: Asset allocation Strategy and Discount Rate Selection

Check the box next to the Asset Allocation Strategy on which you have based your OPEB actuarial valuation or Alternative Measurement Method (AMM) cost report. Each strategy has a different assumed Long Term Expected Rate of Return and risk profile. Your CERBT assets will be invested using the Asset Allocation Strategy indicated here.

The choices you check off on this form should match those used by your actuary in the OPEB valuation.

SECTION II: ARC Funding

- If you are fully funding, check the first box indicating the 100% funding, the applicable Discount Rate, and the valuation date.
- If you are funding at less than 100%, check the second box to indicate the percentage of funding [trust contributions plus paygo (and Implicit Rate Subsidy if applicable) divided by ARC], the valuation date, and the Discount Rate.
- If you are funding at less than 100% and your contributions are not tied specifically to the ARC, then indicate how you expect to contribute. For example, if you intend to make unreimbursed pay-go payments plus a fixed dollar amount to the trust, then describe this in the space provided.

SECTION III: ARC Contribution Method

Here we ask you to indicate how you expect to make contributions to the trust: Full ARC with reimbursements, ARC net of paygo, or something else (please describe).

SECTION IV: Years of ARC Coverage

Generally, your OPEB valuation will provide two years of ARC coverage. Please identify the specific periods to which the ARC applies.



DELEGATION OF AUTHORITY TO REQUEST DISBURSEMENTS

RESOLUTION OF THE

CITY COUNCIL
(GOVERNING BODY)

OF THE

CITY OF SCOTTS VALLEY
(NAME OF EMPLOYER)

The _____
CITY COUNCIL
(GOVERNING BODY) delegates to the incumbents

in the positions of _____
CITY MANAGER
(TITLE) and

FINANCE DIRECTOR
(TITLE) and/or

ACCOUNTANT II
(TITLE) authority to request on

behalf of the Employer disbursements from the Other Post Employment Prefunding
Plan and to certify as to the purpose for which the disbursed funds will be used.

By _____

Title DENE BUSTICHI, MAYOR

Witness _____

Date _____



CERTIFICATION OF OPEB ACTUARIAL INFORMATION

As Actuary of the plan, I certify that the Other Post-Employment Benefits (OPEB) actuarial valuation upon which the enclosed summary of actuarial information is based meets the following criteria:

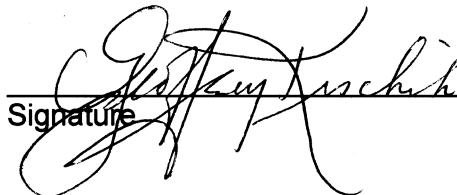
- The valuation has been prepared and signed by a Fellow or Associate of the Society of Actuaries who is also a Member of the American Academy of Actuaries.¹
- The valuation has been prepared in accordance with the Actuarial Standards of Practice.
- The valuation has been prepared in accordance with the requirements set forth in Governmental Accounting Standards Board (GASB) Statements related to OPEB reporting.
- If the actuarial valuation is to be performed every two years, then the valuation includes information that covers two fiscal years.
- If employer assets to pre-fund other post-employment benefits are invested in an irrevocable OPEB trust other than the CERBT, the liabilities associated with those assets are not included in the summary of actuarial information.

I further certify that the discount rate is consistent with the anticipated level of funding pursuant to the relevant section of GASB 43, and the employer's certification.

CITY OF SCOTTS VALLEY
Name of Employer

7/1/03
Valuation Date

GEOFFREY L. KISCHUK, FSA, FCA, MAAA
Printed Name of Actuary and Designation

 10/24/15
Signature Date

¹ In cases where the actuary performing the work does not meet these criteria, the valuation may be acceptable if the person has equivalent qualifications that are acceptable to the CalPERS Board. Please provide the qualifications of the actuary performing the valuation.

SUMMARY OF ACTUARIAL INFORMATION REQUIRED FOR CALPERS FINANCIAL STATEMENTS

Version 6.0

To be used for OPEB valuations dated 06/30/2011 or later

As part of your agreement to use CalPERS to pre-fund OPEB, the following information must be provided to CalPERS each time an OPEB actuarial valuation report is delivered to CalPERS. For actuarial valuations performed once every two years, employers must also provide some additional second year information.

This information is extremely important to CalPERS since it will be used to satisfy the requirements of GASB Statement No. 43.

**Note that CalPERS intends to only publish valuation results in its financial statements on an aggregated basis.
No individual plan results will be published.**

If you have questions, please call (888) CalPERS (225-7377).

Contact Information for Employer

ER Name: City of Scotts Valley
Contact Name: Stephen Ando
Phone Number: (831) 440-5600

Contact Information for Actuarial Firm

Name of Actuarial Firm: TCS, Inc.
Actuary/Contact Name: Geoffrey L. Kischuk, FSA, FCA, MAAA
Phone Number: (805) 496-1700

Name of the person responsible for providing the required information in the table below:

Geoffrey L. Kischuk

CERBT Staff entered data into the softcopy

Column (c) applies to employers who file actuarial valuations every year.

Columns (c) and (d) apply to those who file actuarial valuations every two years.

Item No	Item Description	First Year	Second Year	Comments	Instructions
(a)	(b)	(c)	(d)	(e)	(f)
1.0	Actuarial Valuation Date	7/1/2013			
2.0	Frequency of Actuarial valuations (Annual or Biennial?)	Biennial			Please identify if an actuarial valuation will be performed every year or every two years
3.0	Total Present Value of Benefits (PVB)	7,377,042			
4.0	Total Accrued Liability (AAL)	5,322,276			
5.0	Market Value of Assets	0			The market value of assets should exclude funds not yet transferred to CalPERS that are not currently invested in an irrevocable OPEB trust fund.
5.1	Value of funds included in the market value of assets currently invested in an irrevocable trust fund that will be transferred to the CERBT.	0			Please provide any funds currently invested in an irrevocable OPEB trust fund that will be transferred to the CERBT before the completion of the next actuarial valuation.
6.0	Actuarial Value of Assets	0			The actuarial value of assets should exclude funds not yet transferred to CalPERS that are not currently invested in an irrevocable OPEB trust fund.
6.1	Method to determine the Actuarial Value of Assets	N/A			If applicable, provide a brief description of the asset smoothing used in the valuation.
7.0	Unfunded Accrued Liability (UAL) as of Date of Valuation	5,322,276			
8.0	Funded Ratio (Actuarial Value of Assets / Actuarial Accrued Liability)	0.0%			

Item No	Item Description	First Year	Second Year	Comments	Instructions
9.0	Amortization Method (level dollar or level percentage of projected payroll)	Level Maintenance of Projected Payroll			
9.1	Average Remaining Amortization Period	27	26		
9.2	Please Identify if the Amortization Period is Closed or Open	Initial -- Closed Residual - Open			A closed amortization is where the amortization period eventually goes down to 0. An open amortization is where the number of years remains the same in each valuation.
10.0	Fiscal Year for the ARC (mm/dd/yy - mm/dd/yy) {Note: If valuations are biennial, please indicate <u>both</u> years of coverage}	7/1/13 - 6/30/14	7/1/14 - 6/30/15		
11.0	Total Annual Required Contribution (ARC) \$ amount	503,992	517,852		Very Important Note - The calculation of the ARC should ignore any assets not yet transferred to the CERBT unless these funds are currently invested in an irrevocable trust fund and these funds will be transferred to the CERBT.
11.1	Normal Cost \$ portion of the ARC	232,901	239,306		
11.2	Payment toward UAL \$ portion of the ARC	271,091	278,546		
11.3	Are the ARC amounts in Item 11.0 estimated? If the employer is contributing as a % of payroll and actual ARC amounts cannot be known until the end of the fiscal year, please indicate that Item 11.0 is "Estimated".	Estimated	Estimated		
12.0	Assumed Rate of Return for Investments (%)	6.00%	6.00%		This is the gross assumed rate of return for the portfolio you select (7.61%, 7.06%, or 6.39%).
12.1	Margin for Adverse Deviation (%)	0.00%	0.00%		If you have chosen to reduce the assumed investment Rate of Return for a MFAD, please indicate the percentage by which the assumed rate of return was reduced.
12.2	Net Discount Rate for the investment portfolio (%)	6.00%	6.00%		
13.0	For a partially funded plan, the method used to determine the blended discount rate	no foreseeable contributions, entirely based on employer	no foreseeable contributions, entirely based on employer		Please describe the ratio(s) used to calculate the blended rate.
13.1	Interest Rate used to calculate the blended rate if not fully funding. This is usually the short-term interest rate available to the employer. (%)	4.75%			
13.2	Percentage of ARC funded (if not fully funding)	0.00%	0.00%		This includes net amounts sent to the trust plus unreimbursed pay-go or Implicit Rate Subsidy, divided by the ARC.
13.3	Final Discount Rate (%) used in the OPEB valuation (net of any Margin for Adverse Deviation and blended if less than full funding)	4.750%	4.750%		If fully funding, then enter the appropriate % net of MFAD. If partially funding, enter the blended rate (between Assumed Rate of Return % and the Interest Rate indicated in Item 13.1)
14.0	Annual Covered Payroll	4,491,412			This is the annual payroll for all the active members covered in the valuation. Do not include salaries for employees not covered under the OPEB plans being valued.
15.0	Salary Increase Assumption (if relevant to benefit levels)	N/A			Please provide a brief description of the individual salary increase assumption (only if relevant to benefit levels).

Item No	Item Description	First Year	Second Year	Comments	Instructions
Employer Information					
16.0	Expected frequency of actual contributions to CalPERS (e.g. monthly, quarterly, semi-annual or annual)	As Available			Please provide the anticipated frequency of contributions to CalPERS. Do you expect to send a one payment each year, twice a year, quarterly or monthly?
17.0	Total dollar amount of retiree premiums- (Provide two years of premiums if valuations are biennial)	204,469	203,898		This data comes from the OPEB valuation
18.0	Total dollar amount of Implicit Rate Subsidy or other paygo OPEB Costs counted toward ARC contributions and not included above (Provide two years of information if valuations are biennial)	N/A	N/A		This data comes from the OPEB valuation
19.0	#####				
Participant Information for the Miscellaneous Members					
20.0	Number of Active Members	34			This data comes from the OPEB valuation
20.1	Number of Terminated-Vested Members	0			This data comes from the OPEB valuation
20.2	Number of Recipients	19			This data comes from the OPEB valuation
Participant Information for the Safety Members					
21.0	Number of Active Members	24			This data comes from the OPEB valuation
21.1	Number of Terminated-Vested Members	0			This data comes from the OPEB valuation
21.2	Number of Recipients	5			This data comes from the OPEB valuation

Item No	Item Description	First Year	Second Year	Comments	Instructions
Trend Rates and Health Assumptions					
22.0	Vision Trend Rates (If Applicable)	3.00%			This data comes from the OPEB valuation
22.1	Dental Trend Rates (If Applicable)	4.00%			This data comes from the OPEB valuation
22.2	Health Assumptions	FILL IN THE TABLE BELOW WHERE APPLICABLE			

Provide in the table below the select and ultimate medical and pharmacy cost trend rates where applicable.

	Pre-Medicare Eligible			Post-Medicare Eligible				Other (PEMHCA Minimum, CPI%, Fixed Cap, etc.)
Select Period								
Indicate Each Calendar Yr or Fiscal Yr	HMO	PPO	Indemnity Plan	HMO	PPO	Indemnity Plan	Pharmacy	
2014	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2015	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2016	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2017	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2018	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2019	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2020	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2021	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2022	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
2023	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
Ultimate Medical Trend Rates	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: December 2, 2015

TO: Honorable Mayor and City Council

FROM: Steve Ando, City Manager

SUBJECT: **Approval of New Salary Schedule for Recreation Temporary Employees**

SUMMARY OF ISSUE

The State minimum wage will increase to \$10.00 per hour effective January 1, 2016. With the attached revised salary schedule, the Recreation Aide / Teacher's Aide, Swim Instructor Aide / Lifeguard, Softball Scorekeeper, Basketball Scorekeeper have all been brought up to the \$10.00 level. All other positions above these were increased to keep the relative differences in wages intact.

The increase in wages was accounted for when the budget was developed and the recreation fees approved by Council. Therefore, no changes to the budget are necessary.

FISCAL IMPACT

The fiscal impact has already been factored into the budget.

STAFF RECOMMENDATION

By approval of the consent agenda, Council is approving the attached wage schedule for temporary Recreation employees, effective January 1, 2016.

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RECREATION TEMPORARY EMPLOYEES

SALARY SCHEDULE

Effective January 1, 2016

Job Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Assistant Site Director	14.60	15.33	16.10	16.91	17.76
Recreation Leader / Teacher	12.13	12.74	13.38	14.05	14.75
Recreation Aide / Teacher's Aide	10.00	10.50	11.03	11.58	12.16
Pool Manager	17.80	18.69	19.62	20.60	21.63
Swim Instructor / Head Lifeguard	16.50	17.33	18.20	19.11	20.07
Swim Instructor / Lifeguard	15.50	16.28	17.09	17.94	18.84
Swim Instructor Aide / Lifeguard	10.00	10.50	11.03	11.58	12.16
Softball Scorekeeper	10.00	10.50	11.03	11.58	12.16
Basketball Scorekeeper	10.00	10.50	11.03	11.58	12.16

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: December 2, 2015
TO: Honorable Mayor and City Council
FROM: Steve Ando, City Manager
SUBJECT: **Approval to Recruit for Building Inspector Position**

SUMMARY OF ISSUE

The City's Building Inspector is in the final stages for a position with another city and may be leaving Scotts Valley soon. The City's hiring freeze is still in effect unless authority is given by Council to fill the vacant position. The City has tried in the past to have a contract building inspector rather than a staff person, and it has not worked out operationally for the City. In order to start a recruitment process, if need be, as soon as possible, authority is requested of Council at this time to commence a recruitment and hire for the position of Building Inspector should our current person leave the City.

FISCAL IMPACT

This position is already included in the General Fund Budget.

STAFF RECOMMENDATION

That the Council authorize staff to commence a recruitment and hire for the position of Building Inspector should our current person leave the City.

RESOLUTION NO. 1914

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SCOTTS VALLEY URGING THE STATE
TO PROVIDE NEW FUNDING FOR
PUBLIC TRANSPORTATION INFRASTRUCTURE**

WHEREAS, Governor Edmund G. Brown, Jr. called for the Legislature to convene a session to address the immense underfunding of California's transportation infrastructure, and proposed the Legislature "enact pay-as-you-go, permanent and sustainable funding to: adequately and responsibly maintain and repair the state's transportation and critical infrastructure; improve the state's key trade corridors; and complement local infrastructure efforts"; and

WHEREAS, the Legislature responded to Governor Brown by convening Extraordinary Session 1 on Transportation Infrastructure, and establishing a conference committee to assess various legislative proposals for investing new state funding in the maintenance of California's transportation infrastructure, including, but not limited to, state highways and local streets & roads; and

WHEREAS, the unmet funding needs of California's state highway system and local streets & roads are estimated at approximately \$130 billion over the next ten years, and must be met to ensure the health and safety of the traveling public, and the vitality of California's economy; and

WHEREAS, the cities and counties comprising California's Central Coast, as well as communities across the state, rely on an extensive, but aging, network of public transit to facilitate the movement of people in a manner that is safe, efficient and affordable; and

WHEREAS, the transportation sector is the single largest contributor of greenhouse gas emissions in California, accounting for 38 percent of all emissions in the state; and

WHEREAS, maintaining and expanding public transit, which produces 95 percent less carbon monoxide, 90 percent less volatile organic compounds, 50 percent less carbon dioxide, and 50 percent less NOx, per passenger mile, as passenger vehicles, is vital to meeting the state's air quality and greenhouse gas emission reduction targets; and

WHEREAS, California's public transit systems face a \$72 billion shortfall over the next ten years, \$39 billion of which is necessary for the preservation and rehabilitation of existing infrastructure; and

WHEREAS, Governor Brown's draft framework for a \$3.6 billion transportation funding package acknowledges the unmet funding needs of public transit by directing \$400 million annually to public transit and \$100 million to complete street projects that promote transit and support bicycling and walking; and

WHEREAS, if funding for public transit remains at current levels, the quality, frequency, safety and reliability of transit service will degrade over the next decade, depressing ridership and potentially undermining the ambitious environmental goals the state is striving to achieve; and

WHEREAS, investing new funding in the maintenance and expansion of California's public transit infrastructure incites mode shift that reduces vehicle miles traveled and helps the state to achieve its air quality and greenhouse gas emissions reductions targets; and

WHEREAS, investing new funding in California's public transit infrastructure will bolster the state's economy by creating new construction jobs, reducing traffic congestion and facilitating the efficient movement of people and goods; and

WHEREAS, investing new funding in California's public transit infrastructure is vital to creating ladders of opportunity for the transit dependent in our state who must rely on regional transit service to access education, workforce development, health care and childcare; and

WHEREAS, investing new funding in California's public transit infrastructure is essential to bringing our transit systems into a state of good repair, and ensuring a well-functioning and safe transportation network.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY strongly urges the Legislature to pass a comprehensive transportation funding package that addresses, through significant and ongoing investment, the current and growing needs of our transit, highway and roadway infrastructure, and which contemplates the state's long-term mobility, economic, and environmental needs.

The above and foregoing Resolution was duly and regularly adopted by the City Council of the City of Scotts Valley at a regular meeting held on the 2nd day of December, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Approved: _____
Dene Bustichi, Mayor

Attest: _____
Tracy A. Ferrara, City Clerk

City of Scotts Valley CITY COUNCIL STAFF REPORT

DATE: December 2, 2015

TO: The Honorable Mayor and City Council

FROM: Justin Milroy, Detective Sergeant

**SUBJECT: TOBACCO RETAIL LICENSE (TRL) ORDINANCE – UPDATED
ORDINANCE**

SUMMARY

In August of this year, the proposal for adopting a Tobacco Retail License was brought before Council. During this time the TRL ordinance received a great amount of support, however, several areas of concern were identified by staff and Council. Since that time, we have made some proposed modifications to the ordinance. They are as follows:

1. Clearly identifying the difference between a Tobacco Retailer and a Significant Tobacco Retailer. The primary difference in these definitions has to do with the amount of floor or display space (20%) devoted to tobacco products, tobacco paraphernalia, or both.

“Tobacco retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

“Significant Tobacco Retailer” means any Tobacco Retailer for which the principal or core business is selling Tobacco Products, Tobacco Paraphernalia, or both, as evidenced by any of the following: [twenty percent (20%)] or more of floor or display area is devoted to Tobacco products, Tobacco Paraphernalia, or both.

2. Fee for License – Modifying the original proposed fee of \$100.00 to no fee. All costs incurred for the issuing of licenses and subsequent monitoring and enforcement action will be absorbed by the City. (Formerly 5.22.080)

3. Limits on Tobacco Retail License – 5.22.030 was modified to read “*After the effective date of this ordinance, no license shall be issued to a **Significant Tobacco Retailer** at any location, measured from the nearest property line, that is within one thousand feet of a school, or 500 feet of a park, or other business or institution whose primary business or purpose is the instruction or education of children or those under the age of 18. Examples of such places include, but are not limited to, tutoring centers, child care centers, recreational facilities and gyms*”. The previous definition included all tobacco retailers.
4. Amendments to Scotts Valley Municipal Code Sections 8.25.020 and 8.25.030. Amendments are proposed for some of the definitions so that they coincide with the updated definitions of this ordinance.

FISCAL IMPACT

All administrative, operational, and educational expenses related to this TRL program will be absorbed by the City.

RECOMMENDATION

That the City Council approve first reading and introduction of Ordinance No. 188, the modified Tobacco Retailer License (TRL) ordinance, with no fee, to locally regulate and enforce the retail sales of tobacco and tobacco related products to minors.

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ORDINANCE NO. 188

**AN ORDINANCE OF THE CITY OF SCOTTS VALLEY ADDING CHAPTER 5.22 OF
TITLE 5 OF THE SCOTTS VALLEY MUNICIPAL CODE REQUIRING TOBACCO
RETAILER LICENSES AND AMENDING CHAPTER 8.25 OF THE SCOTTS VALLEY
MUNICIPAL CODE TO REGULATE THE SALE OF TOBACCO PRODUCTS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY AS
FOLLOWS:**

SECTION 1. Title 5 of the Scotts Valley Municipal Code is hereby amended by adding
a new Chapter 5.22 entitled “Tobacco Retailer Licenses” to read as follows:

“Chapter 5.22

Tobacco Retailer Licenses

5.22.010	Definitions
5.22.020	Tobacco retailer license – Violations.
5.22.030	Limits on tobacco retail license.
5.22.040	Application procedure.
5.22.050	Issuance of tobacco retail license.
5.22.060	License renewal and expiration.
5.22.070	License nontransferable.
5.22.080	Fee for license.
5.22.090	Suspension or revocation of license by Chief of Police.
5.22.100	Notice of intended decision.
5.22.110	Procedure for hearing before the Chief of Police.
5.22.120	Decision of the Chief of Police.
5.22.130	Appeal.
5.22.140	Tobacco retailing without a license – Seizure.
5.22.150	Enforcement.
5.22.160	Notice.
5.22.170	Stipulated fine in lieu of hearing.

5.22.010 DEFINITIONS.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) “Chief of Police” shall refer to the City of Scotts Valley Chief of Police or the person designated by the Chief of Police.
- (b) “Drug paraphernalia” shall have the definitions set forth in California Health and Safety Code Section 11014.5, as that section may be amended from time to time.
- (c) “Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part,

or accessory of such a device, whether or not sold separately. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

(d) "Person" shall mean any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(e) "Proprietor" shall mean a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

(f) "Tobacco paraphernalia" shall mean any item designed for the consumption, use, or preparation of Tobacco Products.

(g) "Tobacco product" shall mean:

(1) Any product containing, made or derived from tobacco or nicotine that is intended for human consumption whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and

(2) Any Electronic Smoking Device. Notwithstanding any provision of subsections (1) and (2) to the contrary, "Tobacco Product" includes any component, part, or accessory of a tobacco product whether or not sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for the sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(h) "Tobacco retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(i) "Self-Service Display" means the open display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer.

(j) “Significant Tobacco Retailer” means any Tobacco Retailer for which the principal or core business is selling Tobacco Products, Tobacco Paraphernalia, or both, as evidenced by the fact that twenty percent (20%) or more of floor or display area is devoted to Tobacco products, Tobacco Paraphernalia, or both.

5.22.020 TOBACCO RETAILER LICENSE – VIOLATIONS.

(a) It shall be unlawful for any person to act as a Tobacco Retailer, or to display or advertise the sale of tobacco products, tobacco paraphernalia or Electronic Smoking Devices, without complying with Chapter 8.20 and obtaining and maintaining a valid tobacco retailer’s license pursuant to this chapter for each location at which that activity is to occur.

(b) Tobacco retailing by persons on foot or from vehicles is prohibited.

(c) Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.

(d) Positive Identification Required. No person engaged in Tobacco Retailing shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to another person who appears to be under the age of 27 years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.

(e) Minimum Age for Persons Selling Tobacco. No Person who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.

(f) Self-Service Displays Prohibited. Tobacco Retailing by means of a Self-Service Display is prohibited, except in a Tobacco Retail Store as defined above.

(g) In the course of tobacco retailing or in the operation of a business or maintenance of a location for which a tobacco retailer’s license has been issued, it shall be a violation of this chapter for a licensee, or any of the licensee’s agents or employees, to violate any local, state or federal law applicable to tobacco products, tobacco paraphernalia, tobacco retailing, narcotics or Electronic Smoking Devices.

5.22.030 LIMITS ON TOBACCO RETAIL LICENSE.

(a) No license shall be issued to authorize tobacco retailing at other than a fixed business place.

(b) No license shall be issued to authorize tobacco retailing at any location for which a tobacco retailer license suspension is in effect or during a period of ineligibility following a revocation.

(c) After the effective date of this ordinance, no license shall be issued to a Significant Tobacco Retailer at any location, measured from the nearest property line, that is within one thousand feet of a school, or 500 feet of a park, or other business or institution whose primary business or purpose is the instruction or education of children or those under the age of 18. Examples of such places include, but are not limited to, tutoring centers, child care centers, recreational facilities and gyms.

5.22.040 APPLICATION PROCEDURE.

(a) Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. The application shall include a statement signed by each proprietor that no drug paraphernalia is or will be sold at the location for which the license is sought.

(b) It shall be the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license.

(c) No proprietor may rely on the issuance of a tobacco retailer's license as a determination by the city that the proprietor has complied with all laws applicable to tobacco retailing.

(d) A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 5.22.090

(e) Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

(f) All applications shall be submitted on a form supplied by the city planning department and shall contain the following information:

(1) The name, address, and telephone number of each proprietor of the business that is seeking a license.

(2) The business name, address, and telephone number of the single fixed location for which a license is sought.

(3) A single name and mailing address authorized by each proprietor to receive all communications and notices (the "authorized address") required by, authorized by, or convenient to the enforcement of this chapter. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection (f)(2).

(4) Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California State Board of Equalization, if the tobacco retailer sells products that require such license.

(5) Whether a proprietor has previously been issued a tobacco retailer's license pursuant to this chapter that is or was at any time suspended or revoked, and, if so, the dates and locations of all such suspensions or revocations.

(6) Such other information as the Chief of Police deems reasonably necessary for the administration or enforcement of this chapter.

(7) All information required to be submitted in order to apply for a tobacco retailer's license shall be updated with the city planning department whenever the information changes. A tobacco retailer shall provide the city planning department with any updates within ten business days of a change.

5.22.050 ISSUANCE OF TOBACCO RETAIL LICENSE.

Upon the receipt of a complete application for a tobacco retailer's license and the license fee required by this chapter, the city planning department shall forward the application to the Chief of Police. The Chief of Police shall have the final authority to issue a tobacco retail license unless one or more of the following exists:

(a) The application seeks authorization for tobacco retailing at a location for which a current proprietor's suspension is in effect pursuant to this chapter, for which a current proprietor's license has been revoked pursuant to this chapter, or for which this chapter otherwise prohibits issuance of tobacco retailer licenses;

(b) The application seeks authorization for tobacco retailing for a proprietor to whom a suspension is in effect pursuant to this chapter for the subject location or another location, whose license has been revoked pursuant to this chapter for the subject location or another location, or to whom this chapter otherwise prohibits a tobacco retailer license to be issued;

(c) The city has information that the proprietor or his or her agent or employee has violated any local, state or federal tobacco control law, including this chapter, within the preceding twelve months; or

(d) The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter or Chapter 8.20, that is otherwise unlawful pursuant to this code, or that is unlawful pursuant to any other local, state, or federal law.

Any denial of an application shall be in writing and shall set forth the reasons for denial of the permit. Such denial shall be subject to appeal in accordance with Section 5.22.130 of this code.

5.22.060 LICENSE RENEWAL AND EXPIRATION.

(a) A tobacco retailer license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of a tobacco retailer license is one year beginning each fiscal year on July 1st and ending on June 30th of the same year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than thirty days prior to expiration of the term.

(b) A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired, or to renew a license not timely renewed pursuant to subsection (a), the proprietor must:

- (1) Submit the license fee.
- (2) Submit a signed affidavit affirming that the proprietor:
 - (i) Has not sold and will not sell any tobacco product, tobacco paraphernalia or Electronic Smoking Devices after the license expiration date and before the license is renewed; or
 - (ii) Has waited the appropriate ineligibility period established for tobacco retailing without a license, as set forth in Section 5.22.090(b) before seeking renewal of the license.

5.22.070 LICENSE NONTRANSFERABLE.

(a) A tobacco retailer's license may not be transferred from one person to another or from one location to another. Whenever a tobacco retailing location has a change in proprietor a new tobacco retailer's license is required.

(b) Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

- (1) The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and
- (2) The new proprietor(s) provides the city with clear and convincing evidence that the new proprietor(s) has acquired or is acquiring the location in an arm's length transaction. As used in this section, the term "arm's length transaction" shall mean a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.

5.22.080 SUSPENSION OR REVOCATION OF LICENSE BY CHIEF OF POLICE.

(a) In addition to any other remedy authorized by law, a tobacco retailer's license may be suspended and eventually revoked if the Chief of Police finds pursuant to this chapter that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 5.22.020. During any period of license suspension, the retailer must remove all tobacco products from public view and cannot sell such products.

(b) Time Period of Suspension of License.

(1) Upon the first time that the Chief of Police makes a finding as set forth in subsection (a), the tobacco retailer's license shall be suspended for up to 30 days.

(2) Upon the second time that the Chief of Police makes a finding as set forth in subsection (a) within sixty months of the first determination, the tobacco retailer's license shall be suspended for 90 days.

(3) Upon the third time that the Chief of Police makes a finding as set forth in subsection (a) within sixty months of the prior determination, the tobacco retailer's license shall be suspended for 180 days.

(4) Upon the fourth and each subsequent time that the Chief of Police makes a finding as set forth in subsection (a) within sixty months of the prior determination, the tobacco retailer's license shall be revoked, and no new license may be issued for the location until five years have passed from the date of revocation.

(c) Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the Chief of Police finds, after written notice and opportunity to be heard, that one or more of the bases for denial of a license under Section 5.22.030 existed at the time the application was made or at any time before the license was issued. The decision by the Chief of Police shall be final. The revocation shall be without prejudice to the filing of a new application for license.

5.22.090 NOTICE OF INTENDED DECISION.

(a) Upon determining the existence of any of the grounds for suspension or revocation of a license, the Chief of Police shall issue to the license holder a notice of intended decision.

(b) The notice of intended decision shall state all the grounds upon which the revocation or suspension is based.

(c) The notice of intended decision shall advise the permit holder that the suspension or revocation shall become final unless the licensee files a written request for hearing before the Chief of Police within ten calendar days of the date of service of the notice of intended decision.

(d) The notice of intended decision shall specify the effective date of the suspension or revocation.

5.22.100 PROCEDURE FOR HEARING BEFORE THE CHIEF OF POLICE.

(a) The written request for a hearing before the Chief of Police must be received by the Chief of Police within ten calendar days of the date of service of the notice of intended decision.

(b) Upon timely receipt of a written request for a hearing, the Chief of Police shall schedule a hearing which shall be held no later than thirty calendar days after receipt of a timely request for hearing.

(c) The Chief of Police shall serve a notice of hearing on the licensee at least ten calendar days prior to the scheduled date of the hearing.

(d) At the hearing before the Chief of Police, or before a hearing officer at the chief's option, the licensee shall be given the opportunity to present witnesses and relevant documentary evidence.

(e) The hearing will be conducted informally, and the technical rules of evidence shall not apply. Any and all evidence which the Chief of Police or hearing officer deems reliable, relevant, and not unduly repetitious may be considered.

5.22.110 DECISION OF THE CHIEF OF POLICE.

(a) The Chief of Police, or hearing officer, shall serve on the licensee a written decision sustaining, reversing, or modifying the Chief's or hearing officer's intended decision.

(b) The decision by the Chief of Police, designee, or hearing officer after hearing shall become final unless the licensee files an appeal within the time period specified in Chapter 4.20 of this code.

5.22.120 APPEAL.

If a licensee is dissatisfied with the written decision of the Chief of Police or designee, the licensee may file a written appeal. The appeal shall be conducted in accordance with Chapter 4.20 of this code. For purposes of Chapter 4.20, the written decision of the Chief of Police or designee shall constitute an abatement order and the Chief of Police shall be the designated enforcement Official.

5.22.130 TOBACCO RETAILING WITHOUT A LICENSE – SEIZURE.

(a) Tobacco products, tobacco paraphernalia and Electronic Smoking Devices offered for sale or exchange in violation of this chapter are subject to seizure by the Chief of Police, or any peace officer, and shall be forfeited after the licensee and any other owner of the tobacco products, tobacco paraphernalia or Electronic Smoking Devices seized is given reasonable notice and an opportunity to demonstrate that the tobacco products, tobacco paraphernalia or Electronic Smoking Devices were not offered for sale or exchange in violation of this chapter.

(b) Forfeited tobacco products, tobacco paraphernalia and e-cigarettes shall be maintained and destroyed pursuant to the police department's policy for seized evidence.

5.22.140 ENFORCEMENT.

(a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

(b) Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter, and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(c) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.

(d) Violations of this chapter are hereby declared to be public nuisances.

(e) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied or prosecuted pursuant to Title 4 of this code.

(f) (1) A first violation of this chapter shall constitute an infraction punishable by a fine of three hundred dollars.

(2) A second violation of this chapter committed within one year of a first violation shall constitute an infraction punishable by a fine of one thousand dollars.

(3) A third violation of this chapter committed within one year of a second violation shall constitute an infraction punishable by a fine of three thousand dollars.

(4) A fourth or subsequent violation of this chapter committed within one year of a prior violation shall constitute a misdemeanor punishable by a fine of five thousand dollars.

Each day a violation of this chapter exists is a separate offense.

5.22.150 NOTICE.

Whenever a notice is required to be given under this chapter, it shall be addressed to such person to be notified at the authorized address provided in the application for a tobacco retail license pursuant to Section 5.22.040 or, if an authorized address is not supplied, to the business address provided pursuant to Section 5.22.040.

5.22.160 STIPULATED FINE IN LIEU OF HEARING.

For a first or second alleged violation of this chapter within any sixty-month period, the city attorney may allow a tobacco retailer alleged to have violated this chapter to stipulate to the penalties provided for in this section in lieu of the penalties that would otherwise apply under this chapter and to forego a hearing on the allegations. Notice of any stipulation shall be provided to the police department and no hearing shall be held. Stipulations shall not be confidential and shall contain the following terms, plus any other noncriminal provisions established by the city attorney in the interests of justice:

(a) After a first alleged violation of the chapter at a location:

- (1) An agreement to stop acting as a tobacco retailer for one day; and/or
- (2) An administrative penalty of one thousand dollars; and/or
- (3) An admission that the violation occurred and a stipulation that the violation will be considered in determining the penalty for any future violation.

(b) After a second alleged violation of the chapter at a location within any sixty-month period:

- (1) An agreement to stop acting as a tobacco retailer for ten days; and/or
- (2) An administrative penalty of at least five thousand dollars; and/or
- (3) An admission that the violation occurred and a stipulation that the violation will be considered in determining the penalty for any future violations."

SECTION 2. Section 8.25.020H of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to read as follows:

- A. "8.25.020H "Retail tobacco store" means a retail store that sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia."

SECTION 3. Section 8.25.020J of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to read as follows:

A. “8.25.020J “Tobacco product” shall mean:

(1) Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; or

(2) Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco-product dependence.”

SECTION 4. Section 8.25.020L of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to read as follows:

“8.25.020L “Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. Any references to e-cigarettes in this Chapter shall include and refer to Electronic Smoking Device.”

SECTION 5. Section 8.25.020 of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to add the following subsections to read as follows:

A. “8.25.020M. “Tobacco paraphernalia” shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

B. 8.25.020N “Tobacco retailer” for purposes of this Chapter only shall mean any person or business which sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, tobacco paraphernalia or e-cigarettes, or who distributes free or low-cost samples of tobacco products, tobacco paraphernalia or e-cigarettes. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, tobacco paraphernalia or e-cigarettes sold, offered for sale, exchanged, or offered for exchange.

C. 8.25.020O “Significant Tobacco Retailer” means any Tobacco Retailer for which the principal or core business is selling Tobacco Products, Tobacco Paraphernalia, or both, as evidenced the fact that twenty percent (20%) or more of floor or display area is devoted to Tobacco products, Tobacco Paraphernalia, or both.”

SECTION 6. Section 8.25.030A of Chapter 8.25 of the Scotts Valley Municipal Code is hereby amended to read as follows:

“A. No Significant Tobacco Retailer shall be located within five hundred feet of any existing public kindergarten, elementary, middle, or junior high or high school or any private school in the City of Scotts Valley.”

SECTION 7. Section 8.25.030 of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to add the following subsections:

A. “8.25.030(d) Positive Identification Required. No Tobacco Retailer shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to another person who appears to be under the age of 27 years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.”

B. “8.25.030(e) Minimum Age for Persons Selling Tobacco. No Person who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.”

C. “8.25.030(f) Self-Service Displays Prohibited. Tobacco Retailing by means of a Self-Service Display is prohibited except in a Tobacco Retail Store as defined above.”

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 9. REPEALS CONFLICTING ORDINANCES. All other ordinances of the City of Scotts Valley or provisions of the Scotts Valley Municipal Code which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 10. CEQA. The City Council finds and determines that the enactment of this Ordinance is statutorily exempt from environmental review pursuant to the State CEQA Guideline Section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 11. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after the date of its adoption. Prior to the expiration of fifteen (15) days from the date of adoption, this Ordinance shall be published in at least three (3) public places.

This Ordinance was introduced on the 2nd day of December, 2015, and passed and adopted by the City Council of the City of Scotts Valley on the _____ day of _____, 2015, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Dene Bustichi, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney

ORDINANCE NO. 188

AN ORDINANCE OF THE CITY OF SCOTTS VALLEY ADDING CHAPTER 5.22 OF TITLE 5 OF THE SCOTTS VALLEY MUNICIPAL CODE REQUIRING TOBACCO RETAILER LICENSES AND AMENDING CHAPTER 8.25 OF THE SCOTTS VALLEY MUNICIPAL CODE TO REGULATE THE SALE OF TOBACCO PRODUCTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY AS FOLLOWS:

SECTION 1. Title 5 of the Scotts Valley Municipal Code is hereby amended by adding a new Chapter 5.22 entitled "Tobacco Retailer Licenses" to read as follows:

"Chapter 5.22

Tobacco Retailer Licenses

- 5.22.010 Definitions
- 5.22.020 Tobacco retailer license – Violations.
- 5.22.030 Limits on tobacco retail license.
- 5.22.040 Application procedure.
- 5.22.050 Issuance of tobacco retail license.
- 5.22.060 License renewal and expiration.
- 5.22.070 License nontransferable.
- 5.22.080 Fee for license.
- 5.22.090 Suspension or revocation of license by Chief of Police.
- 5.22.100 Notice of intended decision.
- 5.22.110 Procedure for hearing before the Chief of Police.
- 5.22.120 Decision of the Chief of Police.
- 5.22.130 Appeal.
- 5.22.140 Tobacco retailing without a license – Seizure.
- 5.22.150 Enforcement.
- 5.22.160 Notice.
- 5.22.170 Stipulated fine in lieu of hearing.

5.22.010 DEFINITIONS.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) "Chief of Police" shall refer to the City of Scotts Valley Chief of Police or the person designated by the Chief of Police.
- (b) "Drug paraphernalia" shall have the definitions set forth in California Health and Safety Code Section 11014.5, as that section may be amended from time to time.

(c) “Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

(d) “Person” shall mean any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(e) “Proprietor” shall mean a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

(f) “Tobacco paraphernalia” shall mean any item designed for the consumption, use, or preparation of Tobacco Products.

(g) “Tobacco product” shall mean:

(1) Any product containing, made or derived from tobacco or nicotine that is intended for human consumption whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and

(2) any Electronic Smoking Device. Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory of a tobacco product whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for the sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(h) “Tobacco retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(i) “Self-Service Display” means the open display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer.

(j) “Significant Tobacco Retailer” means any Tobacco Retailer for which the principal or core business is selling Tobacco Products, Tobacco Paraphernalia, or both, as evidenced by ~~the fact that any of the following: [twenty percent (20%)] or more of floor or display area is devoted to Tobacco products, Tobacco Paraphernalia, or both; [sixty-seven percent (67%)] or more of gross sales receipts are derived from Tobacco Products, Tobacco Paraphernalia, or both; or [fifty percent (50%)] or more of completed sales transactions include Tobacco Products or Tobacco Paraphernalia.~~

55.22.020 TOBACCO RETAILER LICENSE – VIOLATIONS.

(a) It shall be unlawful for any person to act as a ~~Significant~~ Tobacco Retailer, or to display or advertise the sale of tobacco products, tobacco paraphernalia or Electronic Smoking Devices, without complying with Chapter 8.20 and obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur.

(b) Tobacco retailing by persons on foot or from vehicles is prohibited.

(c) Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.

(d) Positive Identification Required. No person engaged in Tobacco Retailing shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to another person who appears to be under the age of 27 years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.

(e) Minimum Age for Persons Selling Tobacco. No Person who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.

(f) Self-Service Displays Prohibited. Tobacco Retailing by means of a Self-Service Display is prohibited, except in a Tobacco Retail Store as defined above.

(g) In the course of tobacco retailing or in the operation of a business or maintenance of a location for which a tobacco retailer's license has been issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate

any local, state or federal law applicable to tobacco products, tobacco paraphernalia, tobacco retailing, narcotics or Electronic Smoking Devices.

5.22.030 LIMITS ON TOBACCO RETAIL LICENSE.

(a) No license shall be issued to authorize tobacco retailing at other than a fixed business place.

(b) No license shall be issued to authorize tobacco retailing at any location for which a tobacco retailer license suspension is in effect or during a period of ineligibility following a revocation.

(c) After the effective date of this ordinance, no license shall be issued to a Significant Tobacco Retailer~~authorize tobacco retailing~~ at any location, measured from the nearest property line, that is within one thousand feet of a school, or 500 feet of a park, or other business or institution whose primary business or purpose is the instruction or education of children or those under the age of 18. Examples of such places include, but are not limited to, tutoring centers, child care centers, recreational facilities and gyms.

5.22.040 APPLICATION PROCEDURE.

(a) Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. The application shall include a statement signed by each proprietor that no drug paraphernalia is or will be sold at the location for which the license is sought.

(b) It shall be the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license.

(c) No proprietor may rely on the issuance of a tobacco retailer's license as a determination by the city that the proprietor has complied with all laws applicable to tobacco retailing.

(d) A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 5.22.090

(e) Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

(f) All applications shall be submitted on a form supplied by the city planning department and shall contain the following information:

- (1) The name, address, and telephone number of each proprietor of the business that is seeking a license.
- (2) The business name, address, and telephone number of the single fixed location for which a license is sought.
- (3) A single name and mailing address authorized by each proprietor to receive all communications and notices (the “authorized address”) required by, authorized by, or convenient to the enforcement of this chapter. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection (f)(2).
- (4) Proof that the location for which a tobacco retailer’s license is sought has been issued a valid state tobacco retailer’s license by the California State Board of Equalization, if the tobacco retailer sells products that require such license.
- (5) Whether a proprietor has previously been issued a tobacco retailer’s license pursuant to this chapter that is or was at any time suspended or revoked, and, if so, the dates and locations of all such suspensions or revocations.
- (6) Such other information as the Chief of Police deems reasonably necessary for the administration or enforcement of this chapter.
- (7) All information required to be submitted in order to apply for a tobacco retailer’s license shall be updated with the city planning department whenever the information changes. A tobacco retailer shall provide the city planning department with any updates within ten business days of a change.

5.22.050 ISSUANCE OF TOBACCO RETAIL LICENSE.

Upon the receipt of a complete application for a tobacco retailer’s license and the license fee required by this chapter, the city planning department shall forward the application to the Chief of Police. The Chief of Police shall have the final authority to issue a tobacco retail license unless one or more of the following exists:

- (a) The application seeks authorization for tobacco retailing at a location for which a current proprietor’s suspension is in effect pursuant to this chapter, for which a current proprietor’s license has been revoked pursuant to this chapter, or for which this chapter otherwise prohibits issuance of tobacco retailer licenses;
- (b) The application seeks authorization for tobacco retailing for a proprietor to whom a suspension is in effect pursuant to this chapter for the subject location or another location, whose license has been revoked pursuant to this chapter for the subject

location or another location, or to whom this chapter otherwise prohibits a tobacco retailer license to be issued;

(c) The city has information that the proprietor or his or her agent or employee has violated any local, state or federal tobacco control law, including this chapter, within the preceding twelve months; or

(d) The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter or Chapter 8.20, that is otherwise unlawful pursuant to this code, or that is unlawful pursuant to any other local, state, or federal law.

Any denial of an application shall be in writing and shall set forth the reasons for denial of the permit. Such denial shall be subject to appeal in accordance with Section 5.22.130 of this code.

5.22.060 LICENSE RENEWAL AND EXPIRATION.

(a) A tobacco retailer license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of a tobacco retailer license is one year beginning each fiscal year on July 1st and ending on June 30th of the same year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than thirty days prior to expiration of the term.

(b) A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired, or to renew a license not timely renewed pursuant to subsection (a), the proprietor must:

(1) Submit the license fee.

(2) Submit a signed affidavit affirming that the proprietor:

(i) Has not sold and will not sell any tobacco product, tobacco paraphernalia or Electronic Smoking Devices after the license expiration date and before the license is renewed; or

(ii) Has waited the appropriate ineligibility period established for tobacco retailing without a license, as set forth in Section 5.22.090(b) before seeking renewal of the license.

5.22.070 LICENSE NONTRANSFERABLE.

(a) A tobacco retailer's license may not be transferred from one person to another or from one location to another. Whenever a tobacco retailing location has a change in proprietor a new tobacco retailer's license is required.

(b) Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

(1) The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and

(2) The new proprietor(s) provides the city with clear and convincing evidence that the new proprietor(s) has acquired or is acquiring the location in an arm's length transaction. As used in this section, the term "arm's length transaction" shall mean a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.

5.22.080 FEE FOR LICENSE.

~~The fee to issue or to renew a tobacco retailer's license shall be set by resolution of the City Council from time to time. The fee shall be calculated so as to recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators. All fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.~~

~~5.22.090~~ —SUSPENSION OR REVOCATION OF LICENSE BY CHIEF OF POLICE.

(a) In addition to any other remedy authorized by law, a tobacco retailer's license may be suspended and eventually revoked if the Chief of Police finds pursuant to this chapter that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 5.22.020. During any period of license suspension, the retailer must remove all tobacco products from public view and cannot sell such products.

(b) Time Period of Suspension of License.

(1) Upon the first time that the Chief of Police makes a finding as set forth in subsection (a), the tobacco retailer's license shall be suspended for up to 30 days.

(2) Upon the second time that the Chief of Police makes a finding as set forth in subsection (a) within sixty months of the first determination, the tobacco retailer's license shall be suspended for 90 days.

(3) Upon the third time that the Chief of Police makes a finding as set forth in subsection (a) within sixty months of the prior determination, the tobacco retailer's license shall be suspended for 180 days.

(4) Upon the fourth and each subsequent time that the Chief of Police makes a finding as set forth in subsection (a) within sixty months of the prior determination, the tobacco retailer's license shall be revoked, and no new license may be issued for the location until five years have passed from the date of revocation.

(c) Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the Chief of Police finds, after written notice and opportunity to be heard, that one or more of the bases for denial of a license under Section 5.22.030 existed at the time the application was made or at any time before the license was issued. The decision by the Chief of Police shall be final. The revocation shall be without prejudice to the filing of a new application for license.

5.22.1090 NOTICE OF INTENDED DECISION.

(a) Upon determining the existence of any of the grounds for suspension or revocation of a license, the Chief of Police shall issue to the license holder a notice of intended decision.

(b) The notice of intended decision shall state all the grounds upon which the revocation or suspension is based.

(c) The notice of intended decision shall advise the permit holder that the suspension or revocation shall become final unless the licensee files a written request for hearing before the Chief of Police within ten calendar days of the date of service of the notice of intended decision.

(d) The notice of intended decision shall specify the effective date of the suspension or revocation.

5.22.1010 PROCEDURE FOR HEARING BEFORE THE CHIEF OF POLICE.

(a) The written request for a hearing before the Chief of Police must be received by the Chief of Police within ten calendar days of the date of service of the notice of intended decision.

(b) Upon timely receipt of a written request for a hearing, the Chief of Police shall schedule a hearing which shall be held no later than thirty calendar days after receipt of a timely request for hearing.

(c) The Chief of Police shall serve a notice of hearing on the licensee at least ten calendar days prior to the scheduled date of the hearing.

(d) At the hearing before the Chief of Police, or before a hearing officer at the chief's option, the licensee shall be given the opportunity to present witnesses and relevant documentary evidence.

(e) The hearing will be conducted informally, and the technical rules of evidence shall not apply. Any and all evidence which the Chief of Police or hearing officer deems reliable, relevant, and not unduly repetitious may be considered.

5.22.1¹²⁰ DECISION OF THE CHIEF OF POLICE.

(a) The Chief of Police, or hearing officer, shall serve on the licensee a written decision sustaining, reversing, or modifying the Chief's or hearing officer's intended decision.

(b) The decision by the Chief of Police, designee, or hearing officer after hearing shall become final unless the licensee files an appeal within the time period specified in Chapter 4.20 of this code.

5.22.1²³⁰ APPEAL.

If a licensee is dissatisfied with the written decision of the Chief of Police or designee, the licensee may file a written appeal. The appeal shall be conducted in accordance with Chapter 4.20 of this code. For purposes of Chapter 4.20, the written decision of the Chief of Police or designee shall constitute an abatement order and the Chief of Police shall be the designated enforcement Official.

5.22.1³⁴⁰ TOBACCO RETAILING WITHOUT A LICENSE – SEIZURE.

(a) Tobacco products, tobacco paraphernalia and Electronic Smoking Devices offered for sale or exchange in violation of this chapter are subject to seizure by the Chief of Police, or any peace officer, and shall be forfeited after the licensee and any other owner of the tobacco products, tobacco paraphernalia or Electronic Smoking Devices seized is given reasonable notice and an opportunity to demonstrate that the tobacco products, tobacco paraphernalia or Electronic Smoking Devices were not offered for sale or exchange in violation of this chapter.

(b) Forfeited tobacco products, tobacco paraphernalia and e-cigarettes shall be maintained and destroyed pursuant to the police department's policy for seized evidence.

5.22.1⁴⁵⁰ ENFORCEMENT.

(a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

(b) Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter, and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(c) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.

(d) Violations of this chapter are hereby declared to be public nuisances.

(e) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied or prosecuted pursuant to Title 4 of this code.

(f) (1) A first violation of this chapter shall constitute an infraction punishable by a fine of three hundred dollars.

(2) A second violation of this chapter committed within one year of a first violation shall constitute an infraction punishable by a fine of one thousand dollars.

(3) A third violation of this chapter committed within one year of a second violation shall constitute an infraction punishable by a fine of three thousand dollars.

(4) A fourth or subsequent violation of this chapter committed within one year of a prior violation shall constitute a misdemeanor punishable by a fine of five thousand dollars.

Each day a violation of this chapter exists is a separate offense.

5.22.1560 NOTICE.

Whenever a notice is required to be given under this chapter, it shall be addressed to such person to be notified at the authorized address provided in the application for a tobacco retail license pursuant to Section 5.22.040 or, if an authorized address is not supplied, to the business address provided pursuant to Section 5.22.040.

5.22.1760 STIPULATED FINE IN LIEU OF HEARING.

For a first or second alleged violation of this chapter within any sixty-month period, the city attorney may allow a tobacco retailer alleged to have violated this chapter to stipulate to the penalties provided for in this section in lieu of the penalties that would otherwise apply under this chapter and to forego a hearing on the allegations. Notice of any stipulation shall be provided to the police department and no hearing shall be held. Stipulations shall not be confidential and shall contain the following terms, plus any other noncriminal provisions established by the city attorney in the interests of justice:

(a) After a first alleged violation of the chapter at a location:

(1) An agreement to stop acting as a tobacco retailer for one day; and/or

(2) An administrative penalty of one thousand dollars; and/or

(3) An admission that the violation occurred and a stipulation that the violation will be considered in determining the penalty for any future violation.

(b) After a second alleged violation of the chapter at a location within any sixty-month period:

(1) An agreement to stop acting as a tobacco retailer for ten days; and/or

(2) An administrative penalty of at least five thousand dollars; and/or

(3) An admission that the violation occurred and a stipulation that the violation will be considered in determining the penalty for any future violations.”

SECTION 2. Section 8.25.020H of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to read as follows:

A. “8.25.020H “Retail tobacco store” means a retail store that sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia.”

SECTION 23. Section 8.25.0~~21~~0J of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to read as follows:

A. “8.25.0~~21~~0J “Tobacco product” shall mean:

(1) Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; or

(2) Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco-product dependence.”

SECTION 43. Section 8.25.0~~21~~0L of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to read as follows:

“8.25.0~~21~~0L “Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe,

an electronic hookah, or any other product name or descriptor. Any references to e-cigarettes in this Chapter shall include and refer to Electronic Smoking Device.”

SECTION 54. Section 8.25.0~~21~~⁰ of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to add the following subsections to read as follows:

A. “8.25.0~~21~~⁰M. “Tobacco paraphernalia” shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

B. 8.25.0~~21~~⁰N “Tobacco retailer” for purposes of this Chapter only shall mean any person or business which sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, tobacco paraphernalia or e-cigarettes, or who distributes free or low-cost samples of tobacco products, tobacco paraphernalia or e-cigarettes. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, tobacco paraphernalia or e-cigarettes sold, offered for sale, exchanged, or offered for exchange.”

C. 8.25.020O “Significant Tobacco Retailer” means any Tobacco Retailer for which the principal or core business is selling Tobacco Products, Tobacco Paraphernalia, or both, as evidenced the fact that twenty percent (20%) or more of floor or display area is devoted to Tobacco products, Tobacco Paraphernalia, or both.”

SECTION 65. Section 8.25.030A of Chapter 8.25 of the Scotts Valley Municipal Code is hereby amended to read as follows:

“A. No Significant Tobacco Retailer shall be located within five hundred feet of any existing public kindergarten, elementary, middle, or junior high or high school or any private school in the City of Scotts Valley.”

SECTION 7. Section 8.25.0~~32~~⁰ of Chapter 8.25 of Title 8 of the Scotts Valley Municipal Code is hereby amended to add the following subsections:

A. “8.25.0~~32~~⁰(d) Positive Identification Required. No Tobacco Retailer shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to another person who appears to be under the age of 27 years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.”

B. "8.25.0320(e) Minimum Age for Persons Selling Tobacco. No Person who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing."

C. "8.25.0320(f) Self-Service Displays Prohibited. Tobacco Retailing by means of a Self-Service Display is prohibited except in a Tobacco Retail Store as defined above."

SECTION 876. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 987. REPEALS CONFLICTING ORDINANCES. All other ordinances of the City of Scotts Valley or provisions of the Scotts Valley Municipal Code which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 1098. CEQA. The City Council finds and determines that the enactment of this Ordinance is statutorily exempt from environmental review pursuant to the State CEQA Guideline Section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 1109. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after the date of its adoption. Prior to the expiration of fifteen (15) days from the date of adoption, this Ordinance shall be published in at least three (3) public places.

This Ordinance was introduced on the 2nd 15th day of December~~July~~, 2015, and passed and adopted by the City Council of the City of Scotts Valley on the 516th day of August~~December~~, 2015, by the following votes:

AYES: AGUILAR, BUSTICHI, JOHNSON, LIND, REED

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

APPROVED: _____
Dene Bustichi, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney

**City of Scotts Valley
INTEROFFICE MEMORANDUM**

Date: December 2, 2015
To: Honorable Mayor and City Council Members
From: Corrie D. Kates, Community Development Director/Deputy City Manager
Subject: **Sphere of Influence Amendment**

SUMMARY

The Santa Cruz County Local Agency Formation Commission (LAFCO) routinely reviews Sphere of Influence boundaries for local agencies and will ask local agencies if an update is needed. In the case of Scotts Valley and the Scotts Valley Water District (SVWD), LAFCO has offered to clean-up any simple sphere boundaries at no cost to the City.

DISCUSSION

In reviewing the Sphere of Influence boundaries there are parcels that are outside the sphere service area but are receiving domestic sewer and water and as such the service area boundary should be adjusted. Additionally, in reviewing the Sphere of Influence boundaries both the SVWD and the City found parcels that should be included in the Sphere of Influence that would allow these parcels to hook into water and sewer services. There are approximately 110 parcels identified that could be benefited by adjusting the sphere boundaries. Approximately 18 of the parcels are on Green Hills Road that currently are not served by either agency. There is adequate capacity to service these parcels by the SVWD and the City Waste Water Treatment Plant. 92 of the parcels are already in the City sphere but not in the SVWD sphere. The attached sphere of influence map depicts these parcels in green and noted by a cloud. The process could take approximately 8 to 12 months to complete.

FISCAL IMPACT

There is no fiscal impact to the City General Fund. LAFCO has agreed to pay for this limited Sphere of Influence modification.

STAFF RECOMMENDATION

Authorize the City to work with LAFCO and update the Sphere of Influence boundaries.

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