

ANNOTATED AGENDA

for
April 10, 2012

CITY COUNCIL MEETING

Order of Council vote: AYES: Council Members Kalinowski, Harper, Rocha, Agopian and Mayor Davis

Notice of Availability of Reports

This agenda is a summary of the actions proposed to be taken by the City Council. For almost every agenda item, materials have been prepared by the City staff for the Council's consideration. These materials include staff reports which explain in detail the item before the Council and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included. All of these materials are available at the City Clerk's Office, located on the 1st floor of City Hall, 3rd and H Streets, Antioch, CA 94509, during normal business hours for inspection and (for a fee) copying. Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the City Clerk's Office, who will refer you to the appropriate person.

Notice of Opportunity to Address Council

The public has the opportunity to address the Council on each agenda item. To address the Council, fill out a yellow Speaker Request form, available on each side of the entrance doors, and place in the Speaker Card Tray. See the Speakers' Rules on the inside cover of this Agenda. Comments regarding matters not on this Agenda may be addressed during the "Public Comments" section.

5:45 P.M. ROLL CALL for Closed Sessions – *All Present except Mayor Davis (joined at 5:55 p.m and Council Member Harper who joined at 6:06 p.m.)*

PUBLIC COMMENTS for Closed Sessions

CLOSED SESSIONS:

- 1) **CONFERENCE WITH LABOR NEGOTIATOR** – City designated representatives: Deborah McHenry and Glenn Berkheimer; Employee organizations: Public Employees' Union Local No. 1. This Closed Session is authorized pursuant to California Government Code §54957.6. *Direction given to Labor Negotiator*
- 3) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9: Letter from James H. Colopy of Farella Braun + Martel on behalf of Discovery Builders dated March 13, 2012. *Direction given to Staff*
- 4) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Initiation of Litigation pursuant to subdivision (c) of §54956.9 (1 case)
The City Attorney reported out that the City Council had authorized disclosure of the fact that they had agreed not file an unlawful detainer action against Humphrey's Restaurant on the Delta before May 31, 2012, 4/0

COUNCIL RETURNED FROM CLOSED SESSION TO OPEN SESSION AND ANNOUNCED THAT IT WOULD GO BACK INTO CLOSED SESSION AT THE END OF THE PUBLIC SESSION TO HEAR THE REMAINING CLOSED SESSION ITEMS:

- 2) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** —Onita Tuggles v. City of Antioch et al, Ninth Circuit Court of Appeals, Case No. 10-17181; Santeya Danyell Williams, Mary Ruth Scott, Karen Latreece Coleman, Priscilla Bunton, Alyce Denise Payne, v. City of Antioch et al., Northern District Court Case No. C08-02301 SBA. This Closed Session is authorized by California Government Code §54956.9. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential case).

COUNCIL RETURNED FROM CLOSED SESSION TO OPEN SESSION AND ANNOUNCED THAT IT WOULD GO BACK INTO CLOSED SESSION AT THE END OF THE PUBLIC SESSION TO HEAR THE REMAINING CLOSED SESSION ITEMS (Con't):

5) **PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – This Closed Session is authorized by California Government Code §54957 City Manager.

6) **PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – This Closed Session is authorized by California Government Code §54957 – City Attorney.

7:00 P.M. **ROLL CALL** for Council Members – *All Present*

PLEDGE OF ALLEGIANCE

PROCLAMATION – *Bay Area Hunger Walk, April 28 – 29, 2012*

Approved 5/0

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

PUBLIC COMMENTS—*Only unagendized issues will be discussed during this time*

CITY COUNCIL SUBCOMMITTEE REPORTS

MAYOR'S COMMENTS – *Honor for Alissa Friedman as "11th Assembly District Woman of the Year"*
Continued to April 24, 2012

1. **COUNCIL CONSENT CALENDAR**

A. APPROVAL OF COUNCIL MINUTES FOR MARCH 27, 2012

Recommended Action: Motion to approve the minutes

Approved, 5/0

MINUTES

B. APPROVAL OF COUNCIL WARRANTS

Recommended Action: Motion to approve the warrants

Approved, 5/0

STAFF REPORT

C. ORDINANCE AMENDING §9-5.4012 OF THE ANTIOCH MUNICIPAL CODE REGARDING SUNSET OF THE RESIDENTIAL DEVELOPMENT ALLOCATION (RDA) PROGRAM (*Continued from 03/27/12*)

Recommended Action: Motion to adopt the ordinance

Continued to 04/24/12, 5/0

STAFF REPORT

END OF COUNCIL CONSENT CALENDAR

PUBLIC HEARING

- 2. Z-12-02: PREZONING OF AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA – THE PREZONING IS APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO BY THE CITY AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA, WHICH IS GENERALLY LOCATED ADJACENT TO AND/OR IN CLOSE PROXIMITY TO WILBUR AVENUE. THE PROPOSED PREZONING CONSISTS OF PRIMARILY M-2 (HEAVY INDUSTRIAL) ZONING, WITH M-1 (LIGHT INDUSTRIAL) PROPOSED FOR THE UNINCORPORATED AREA SOUTH OF WILBUR AVENUE, AND OS (OPEN SPACE) PROPOSED FOR THE EXISTING ENDANGERED SPECIES PRESERVE LOCATED ON THE NORTH SIDE OF WILBUR AVENUE. A PREVIOUSLY PREPARED MITIGATED NEGATIVE DECLARATION WILL BE UTILIZED TO ADDRESS ANY ENVIRONMENTAL IMPACTS OF THE PROPOSED PREZONING. ON MARCH 7, 2012, THE PLANNING COMMISSION RECOMMENDED TO THE CITY COUNCIL APPROVAL OF THE ORDINANCE TO PREZONE THE APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA (Continued from 03/27/12)

Continued to 04/24/12, 5/0

Recommendation: Continue item to April 24, 2012

STAFF REPORT

- 3. EXTENSION OF THE INTERIM URGENCY ZONING ORDINANCE PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS

Ord. 2056-C-S, 5/0

Recommendation: 1) Motion to read the ordinance by title only; and
2) Motion to adopt the ordinance extending interim urgency zoning ordinance

STAFF REPORT

COUNCIL REGULAR AGENDA

- 4. HOUSING ELEMENT IMPLEMENTATION ISSUES AND OPTIONS REPORT

**Direction to staff
As City Council concurred with
Planning Commission recommendations**

Recommended Action: Provide direction to staff

STAFF REPORT

PUBLIC COMMENT

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS – Mayor Pro Tem Harper indicated he would like agendize the renaming of “L” Street to a future meeting; Council concurrence to place on future agenda

Council Member Agopian indicated he would like to agendize offenders on alcohol related to a future meeting; Council concurrence to place on future agenda

ADJOURNMENT To Closed Session – 8:15 p.m.

CLOSED SESSIONS (Continued):

- 2) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** —Onita Tuggles v. City of Antioch et al, Ninth Circuit Court of Appeals, Case No. 10-17181; Santeya Danyell Williams, Mary Ruth Scott, Karen Latreece Coleman, Priscilla Bunton, Alyce Denise Payne, v. City of Antioch et al., Northern District Court Case No. C08-02301 SBA. This Closed Session is authorized by California Government Code §54956.9. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential case).

No action to report out

- 5) **PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – This Closed Session is authorized by California Government Code §54957 City Manager.

No action to report out

- 6) **PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – This Closed Session is authorized by California Government Code §54957 – City Attorney.

No action to report out

ADJOURNMENT – 9:52 p.m.

**CITY COUNCIL MEETING
INCLUDING THE ANTIOCH CITY COUNCIL
ACTING AS SUCCESSOR AGENCY/HOUSING SUCCESSOR
TO THE ANTIOCH DEVELOPMENT AGENCY**

**Regular Meeting
7:00 P.M.**

**March 27, 2012
Council Chambers**

5:45 P.M. - CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION —Onita Tuggles v. City of Antioch et al, Ninth Circuit Court of Appeals, Case No. 10-17181; Santeya Danyell Williams, Mary Ruth Scott, Karen Latreece Coleman, Priscilla Bunton, Alyce Denise Payne, v. City of Antioch et al., Northern District Court Case No. C08-02301 SBA. This Closed Session is authorized by California Government Code §54956.9. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential case).

2. CONFERENCE WITH LABOR NEGOTIATOR – City designated representatives: Deborah McHenry and Glenn Berkheimer; Employee organizations: Public Employees' Union Local No. 1. This Closed Session is authorized pursuant to California Government Code §54957.6.

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9: Letter from James H. Colopy of Farella Braun + Martel on behalf of Discovery Builders dated March 13, 2012.

4. PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS – This Closed Session is authorized by California Government Code §54957 City Manager.

5. PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS – This Closed Session is authorized by California Government Code §54957 – City Attorney.

Mayor Davis called the meeting to order at 7:34 P.M., and Minutes Clerk Eiden called the roll for the City Council including the Antioch City Council acting as Successor Agency/Housing Successor to the Antioch Development Agency.

Present: Council/Agency Members Kalinowski, Harper, Rocha, Agopian and Mayor Davis

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION AND CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Direction was given to staff, **#2. CONFERENCE WITH LABOR NEGOTIATOR** – Direction was given to staff. City Attorney Nerland announced Council would go back into Closed Session at the end of the Public Session to hear Items #3-5.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Harper led the Council and audience in the Pledge of Allegiance.

PROCLAMATION – *Child Abuse Prevention Month, April 2012*

On motion by Councilmember Rocha, seconded by Councilmember Harper, the Council unanimously approved the proclamation.

Mayor Davis announced the proclamation would be sent to the appropriate party.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Darlene Dawson, Fleet Captain representing the Sportsman's Yacht Club, invited the City Council to Sportsman's Opening Day on April 13, 2012.

Councilmember Rocha announced the following events: Cesar Chavez Day on April 1, 2012 and an event in recognition of individuals who had made contributions in the community, 6:00 P.M at Los Medanos College.

PUBLIC COMMENTS

Martin Fernandez, Antioch resident, apologized to anyone he had offended at the "town hall" meeting. He spoke to his frustration with the County Housing Authority's oversight of the Section 8 program and suggested federal officials attend the next meeting to answer residents' concerns. He also suggested the person responsible for the Nelson Ranch Park design, pay for the relocation of the playground equipment.

Fred Hoskins, Antioch resident, reported the Henry F. Beede Trust had made a donation to the Hard House. He presented the City Council with a picture and requested the City Council approve the posting of a banner on the fence at the Hard House, soliciting funds for the project.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Agopian reported on his attendance at a special meeting of the Antioch Unified School District at Antioch High School, with Councilmember Rocha.

Councilmember Rocha reported on her attendance at the California League of Cities meeting. She announced she participated in a Comcast taping with Mayor Davis, honoring Hometown Heroes.

Councilmember Harper reported on his attendance with Councilmember Rocha at the Community Development Block Grant (CDBG) meetings and he discussed volunteer opportunities in the community.

MAYOR'S COMMENTS

Mayor Davis thanked Mayor Pro Tem Harper for filling in for him at the March 13, 2012 Council meeting and reported on his attendance at various meetings in Washington DC., advocating on behalf of Delta Diablo Sanitation District and the City of Antioch. He noted the town hall meeting was successful and thanked city staff who organized and participated in the event.

Mayor Davis requested the City Council consider hearing Item #3 as the next item of business, to accommodate the seniors in attendance.

On motion by Councilmember Harper, seconded by Councilmember Rocha, the City Council unanimously approved moving Item #3 up to the next item of business.

COUNCIL REGULAR AGENDA

3. SENIOR BUS PROGRAM

Community Development Director Wehrmeister presented the staff report dated March 22, 2012 recommending the City Council discuss Tri Delta Transit's decision to not enter into an agreement with the City of Antioch for pass-through funding of the Senior Bus Program beyond August 31, 2012 and provide direction to staff.

Councilmember Kalinowski thanked staff for working with him to address issues related to the Senior Bus Program and spoke in support of Option #2, as outlined in the staff report.

On motion by Councilmember Kalinowski, seconded by Councilmember Harper, the Council unanimously approved Option #2 – Allowed the Senior Bus Program to be incorporated into the existing dial-a-ride service provided by Tri Delta, contingent on the Tri Delta Board of Director's approving the transition plan. Implementation will formally occur on September 1, 2012.

Councilmember Harper thanked staff for the report and for assisting the seniors.

Mayor Davis thanked Councilmember Kalinowski for his hard work and being involved in the process of developing the transition plan with Tri Delta Transit.

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR MARCH 13, 2012

B. APPROVAL OF COUNCIL WARRANTS

C. APPROVAL OF TREASURER'S REPORT FOR FEBRUARY 2012

D. ORDINANCE AMENDING §9-5.4012 OF THE ANTIOCH MUNICIPAL CODE REGARDING SUNSET OF THE RESIDENTIAL DEVELOPMENT ALLOCATION (RDA) PROGRAM

- E. **APPOINTMENTS BY THE MAYOR TO THE OVERSIGHT BOARD FOR THE CITY OF ANTIOCH AS SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY**
- F. **RESOLUTION NO. 2012/20 APPROVING THE ALLOCATION OF PROPOSITION 1B BOND FUNDING FOR THE DEER VALLEY ROAD AND DAVISON DRIVE PAVEMENT REHABILITATION PROJECT (P.W. 392-28)**
- G. **SHOPPING CARTS RECOVERY – Motion to approve the revised abandoned shopping carts letter to businesses**
- H. **RESOLUTION NO. 2012/21 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE CONTRA COSTA TRANSPORTATION AUTHORITY REGARDING RELEASE OF A DEFERRED IMPROVEMENT AGREEMENT (SKYLAND PROPERTIES) FOR FREEWAY WIDENING PURPOSES**
- I. **CONSULTING SERVICES AGREEMENT WITH MUNICIPAL RESOURCE GROUP LLC**

City Attorney Nerland clarified the City Council had received revisions for Consent Calendar Items A (Minutes) and G (revised shopping cart letter) which were under consideration. She noted Item D would be continued until after Closed Session following the public session this evening.

On motion by Councilmember Harper, seconded by Councilmember Kalinowski, the Council unanimously approved the Council Consent Calendar with the exception of Item D which was continued until after the Closed Session following the public session this evening.

PUBLIC HEARING

- 2. **Z-12-02: PREZONING OF AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA – THE PREZONING IS APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO BY THE CITY AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA, WHICH IS GENERALLY LOCATED ADJACENT TO AND/OR IN CLOSE PROXIMITY TO WILBUR AVENUE. THE PROPOSED PREZONING CONSISTS OF PRIMARILY M-2 (HEAVY INDUSTRIAL) ZONING, WITH M-1 (LIGHT INDUSTRIAL) PROPOSED FOR THE UNINCORPORATED AREA SOUTH OF WILBUR AVENUE, AND OS (OPEN SPACE) PROPOSED FOR THE EXISTING ENDANGERED SPECIES PRESERVE LOCATED ON THE NORTH SIDE OF WILBUR AVENUE. A PREVIOUSLY PREPARED MITIGATED NEGATIVE DECLARATION WILL BE UTILIZED TO ADDRESS ANY ENVIRONMENTAL IMPACTS OF THE PROPOSED PREZONING. ON MARCH 7, 2012, THE PLANNING COMMISSION RECOMMENDED TO THE CITY COUNCIL APPROVAL OF THE ORDINANCE TO PREZONE THE APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA**

Planning Consultant Carniglia presented the staff report dated March 15, 2012. He reported since the publication of the staff report, the City had received a letter from West Coast Builders that afternoon, which asserted the environmental document for the pre-zoning was inadequate. He spoke to the relevance and accuracy of the letter and suggested the City Council open the public hearing and continue to April 10, 2012, to allow staff time to prepare a written response.

City Attorney Nerland clarified that the letter before Council was authored by Kristina Lawson of Manatt, Phelps and Phillips LLP, on behalf of West Coast Builders and Albert Seeno. She noted Mr. Seeno had no interest or ownership interest in the property subject to the pre-zoning or in the surrounding vicinity. She further noted taking two weeks to respond fully in writing would not affect the timing of the project and would give the City the opportunity to create a record.

Mayor Davis opened the Public Hearing.

The following individuals provided oral and written comment indicating the consensus of the Sportsman's Yacht Club membership opposed the annexation of their property into the City of Antioch: Don Wilson, Bill Worrell, Casey Curry, Kay Power and Darlene Dawson.

On motion by Councilmember Kalinowski, seconded by Councilmember Agopian, the Council unanimously continued the public hearing to April 10, 2012.

Planning Consultant Carniglia reported the Sportsman's Yacht Club property was not in the annexation area subject to the rezoning.

COUNCIL REGULAR AGENDA – *Continued*

4. BILLBOARD PROPOSAL ON CITY-OWNED PROPERTY - DELTA FAIR AND CENTURY BOULEVARDS (APN 074-080-029)

Economic Development Analyst Nunnally presented the staff report dated March 21, 2012 recommending the City Council provide direction to Staff on the proposal by Mesa Outdoor to erect and maintain a billboard on City-owned property.

Mike McCoy briefly described design details and location for the proposed monument sign and stated they looked forward to entering into a new market in Antioch.

Councilmember Kalinowski stated he cannot support moving forward with this project due to the potential for having too many digital display billboards in one area.

In response to Councilmember Kalinowski, City Manager Jakel stated he believed the project would be subject to Design Review approval.

On motion by Councilmember Harper, seconded by Councilmember Rocha, the Council directed staff to move forward with the proposal to erect and maintain the billboard on City-owned property and authorized the City Manager to execute an agreement consistent with the terms as outlined in the staff report. The motion carried the following vote:

Ayes: Harper, Rocha, Agopian and Davis

Noes: Kalinowski

**5. AUTHORIZATION TO CAST BALLOTS FOR CITY-OWNED PROPERTIES REGARDING
2012 COMMUNITY CLEAN WATER INITIATIVE**

Administrative Analyst Hoffmeister presented the staff report dated March 14, 2012 recommending the City Council motion to adopt the resolution authorizing the City Manager to cast ballots for City-Owned Properties.

John Bliss, SCI Consulting Group, described the philosophy and perspective regarding a property-owner balloting.

Tom Dalziel, Program Manager for the Contra Costa Clean Water Program, discussed costs associated with the Clean Water initiative.

Administrative Analyst Hoffmeister described the process used to fund the initiative.

City Manager Jakel added that he would provide the City Council with information on how the Clean Water program operates.

Councilmember Agopian stated that while he sees the need to fund the state mandates, he does not support the methodology used for the initiative and he felt the public's expectation was that this issue go to election through the County Registrar of Voters.

Councilmember Rocha stated she understood Councilmember Agopian's concerns and voiced her support for a future discussion regarding the details of the Clean Water Program. She noted she views the initiative as prevention insurance, should there be a disaster.

Mr. Dalziel stated it was his responsibility to ensure the City was in full compliance with the Federal State Storm Water Rules and discussed potential impacts, should the Clean Water Initiative fail.

Councilmember Kalinowski expressed concern that government employees sat on the management committee without an oversight committee for the funds collected. Additionally, he noted there was no public vetting for how the program operates.

Mr. Dalziel explained the proposed 2012 community clean water fee had an independent oversight committee and would be required to go before the Board of Supervisors each year for

implementation. He noted the members of the oversight committee would be selected by the Board of Supervisors, required to be property owners that live in Contra Costa County, and their duties would include a review of the audits each year to insure revenues generated were spent on compliance.

Administrative Analyst Hoffmeister clarified the existing Storm Water Utilities Assessment was for activities, done on a regional scale and the proposed fee would be 100 percent return to source and cover specific local provisions and regulations with which the City was required to be in compliance. He also noted the proposed fee contained a minimal administration fee.

Mr. Dalziel reported Agendas and Minutes for the Clean Water Board were available online at www.cccleanwater.org.

Councilmember Rocha stated she would support adopting the resolution, understanding the financial impact to the City, if there were to be a problem.

Councilmember Harper stated with the understanding the funds would be coming back locally to be used for individual activities and address the unfunded mandate, he would support approval of the resolution.

A motion was made by Councilmember Rocha to adopt the resolution authorizing the City Manager to cast the ballot for City-owned properties. The motion was seconded by Councilmember Harper. The following vote resulted in no action.

The City Manager was not authorized to cast ballots.

Ayes: Harper, Rocha

Noes: Agopian, Davis

Abstain: Kalinowski

6. CITY OF ANTIOCH AS SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY

A. APPROVAL OF SUCCESSOR AGENCY WARRANTS

On motion by Councilmember Agopian, seconded by Councilmember Kalinowski, the Council unanimously approved the Successor Agency Warrants.

7. CITY OF ANTIOCH AS HOUSING SUCCESSOR TO THE ANTIOCH DEVELOPMENT AGENCY

A. APPROVAL OF HOUSING SUCCESSOR WARRANTS

On motion by Councilmember Agopian, seconded by Councilmember Harper, the Council unanimously approved the Housing Successor Warrants.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced the following events:

- April 7, 2012 – Antioch Boat Ramp Ribbon Cutting and Jet Ski Competition
- April 10, 2012 – City Council Meeting

He indicated he had authorized an emergency procurement of approximately \$50,000 in services to deal with power and utility problems at the Water Treatment Plant forcing the use of the generator at the cost of approximately \$3,000 per day and further emergency procurements for this problem were not expected.

City Attorney Nerland clarified the City Council would go back into Closed Session to address the remaining items. She noted following Closed Session, the Council would go back into open session to take action regarding Consent Calendar Item 1D.

COUNCIL COMMUNICATIONS - None

ADJOURNMENT

Mayor Davis adjourned to Closed Session at 9:19 P.M.

The City Council reconvened at 9:52 P.M. Minutes Clerk Eiden called the roll.

Present: Council Members Kalinowski, Harper, Rocha, Agopian and Mayor Davis

City Attorney Nerland reported the City Council had been in Closed Session and provided the following report: **#3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Direction given to staff, **#4. PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – There was nothing to report out, **#5. PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – There was nothing to report out.

1. D. ORDINANCE AMENDING §9-5.4012 OF THE ANTIOCH MUNICIPAL CODE REGARDING SUNSET OF THE RESIDENTIAL DEVELOPMENT ALLOCATION (RDA) PROGRAM

On motion by Councilmember Kalinowski, seconded by Councilmember Agopian, the Council continued item 1-D to April 10, 2012.

ADJOURNMENT

With no further business, Mayor Davis adjourned the meeting at 9:55 P.M. to the next regular Council meeting on April 10, 2012.

Respectfully submitted:

DENISE SKAGGS, CITY CLERK

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 MARCH 22 - APRIL 4, 2012
 FUND/CHECK#

100 General Fund

Non Departmental

132573 BARGHAUSEN CONSULTING ENGINEERS	DEPOSIT REFUND	2,000.00
132581 BROWN COW WEST CORP	DEPOSIT REFUND	2,000.00
132598 DELTA BOWL	DEPOSIT REFUND	1,000.00
132608 FIRST FAMILY CHURCH	DEPOSIT REFUND	2,000.00
132623 LOEWKE PLANNING ASSOCIATES	CONSULTING SERVICES	2,297.00
132631 ORDAZ CULTURED MARBLE & ONYX	DEPOSIT REFUND	2,000.00
132656 ARC INC	DEPOSIT REFUND	1,000.00
132657 ARORA, PREM	DEPOSIT REFUND	1,028.00
132667 BLUE SHIELD LIFE	PAYROLL DEDUCTIONS	98.22
132670 BURKE WILLIAMS AND SORENSEN LLP	LEGAL SERVICES	1,298.00
132689 DELTA DENTAL	PAYROLL DEDUCTIONS	1,127.18
132763 RITE AID	DEPOSIT REFUND	1,249.75
132775 TRIPLE E ENTERPIRSES	DEPOSIT REFUND	1,000.00
916920 ZUMWALT ENGINEERING GROUP INC	ENGINEERING SERVICES	600.00

City Attorney

132588 CONTINUING EDUCATION OF THE BAR	AUTOMATIC UPDATES	181.62
132670 BURKE WILLIAMS AND SORENSEN LLP	LEGAL SERVICES	4,631.50
132715 JARVIS FAY AND DOPORTO LLP	LEGAL FEES	623.74

City Manager

132597 DANIELS, SHARON P	EXPENSE REIMBURSEMENT	13.35
132619 JAKEL, JAMES M	EXPENSE REIMBURSEMENT	32.00
132629 OFFICE MAX INC	OFFICE SUPPLIES	122.55
132680 CONTRA COSTA TIMES	NEWSPAPER SUBSCRIPTION	30.45

City Clerk

132695 EIDEN, KITTY J	MINUTES CLERK	420.00
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City Treasurer

132638 PFM ASSET MGMT LLC	ADVISORY SERVICES	5,635.52
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Human Resources

132602 THE E GROUP LLC	PROFESSIONAL SERVICES	400.00
132625 MUNICIPAL POOLING AUTHORITY	PROFESSIONAL CONTRACT	437.27
132636 PARS	ADMIN FEE - JAN12	2,081.95
132661 EMPLOYEE	EMPLOYMENT RECOGNITION	350.00
132737 NETSOURCE INC	CONSULTANT SERVICES	1,336.32
132741 OFFICE MAX INC	OFFICE SUPPLIES	98.51

Finance Accounting

132673 CAPORICCI AND LARSON CPA	AUDIT SERVICES	6,180.00
917046 SUNGARD PUBLIC SECTOR INC	ASP SERVICE	11,886.53

Finance Operations

132627 NEOPOST	POSTAGE	1,000.00
132778 UNITED PARCEL SERVICE	WEEKLY PRINTER SERVICE FEE	4.00
132784 XEROX CORPORATION	COPIER LEASE	1,339.25

Non Departmental

132626 MUNICIPAL POOLING AUTHORITY	PAYROLL DEDUCTIONS	31,440.71
132641 PERS	NON ELIGIBLE ADMIN FEE	1,482.05

Prepared by: Georgina Meek
 Finance Accounting

4/5/2012

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 MARCH 22 - APRIL 4, 2012
 FUND/CHECK#

132707 RAYMOND FONG & JACK HILL	LIABILITY CLAIM	1,100.00
132756 PERS	NON ELIGIBLE PREMIUMS	1,364.23
132757 PERS	NON ELIGIBLE ADMIN FEE	1,596.51
132781 WAGeworks	ADMIN FEES	150.00
201525 MELO LANDSCAPING/JANITORIAL	BUS LIC OVERPAYMENT REFUND	8.00
916978 RETIREE	RETIREMENT ALLOWANCE	1,643.21
Public Works Maintenance Administration		
132738 NEXTEL SPRINT	CELL PHONE	61.14
Public Works General Maintenance Services		
132738 NEXTEL SPRINT	CELL PHONE	40.73
Public Works Street Maintenance		
132576 BAY AREA FLOOR MACHINE CO	MACHINE PARTS	416.83
132600 DELTA GRINDING CO INC	EQUIPMENT RENTAL	1,083.33
132663 BAY AREA FLOOR MACHINE CO	SUPPLIES	192.24
132689 DELTA DENTAL	PAYROLL DEDUCTIONS	111.74
132738 NEXTEL SPRINT	CELL PHONE	21.15
132778 UNITED PARCEL SERVICE	SHIPPING	26.53
916916 GRAINGER INC	SUPPLIES	121.22
Public Works-Signal/Street Lights		
132617 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,445.65
132634 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	306.49
132659 AT AND T MCI	PHONE	564.84
132713 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	203.12
132748 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	277.70
Public Works-Striping/Signing		
132580 BIG B LUMBER	LUMBER	153.20
132599 DELTA FENCE CO	FENCE REPAIR	1,947.00
132624 LOWES COMPANIES INC	SUPPLIES	37.87
132648 SUPERCO SPECIALTY PRODUCTS	GRAFFITI REMOVER	231.70
132667 BLUE SHIELD LIFE	PAYROLL DEDUCTIONS	10.69
132743 ORCHARD SUPPLY HARDWARE	SOCKETS	21.61
132749 PACIFIC PRODUCTS AND SERVICES INC	REPLACEMENT CHECK	278.77
132762 RIGEL PRODUCTS AND SERVICE	EQUIPMENT REPAIR	529.16
916916 GRAINGER INC	SUPPLIES	86.77
Public Works-Facilities Maintenance		
132579 BAY CITIES PYROTECTOR	SPRINKLER TEST	250.00
132615 HONEYWELL INTERNATIONAL INC	HVAC SERVICES	13,586.13
132624 LOWES COMPANIES INC	SUPPLIES	118.99
132628 OAKLEYS PEST CONTROL	PEST CONTROL SERVICE	100.00
132643 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	360.21
132652 WESCO RECEIVABLES CORP	SUPPLIES	1,139.15
132659 AT AND T MCI	PHONE	45.96
132699 FERTADO HEATING AND AIR INC	COMPRESSOR SERVICE	195.00
132710 HONEYWELL INTERNATIONAL INC	HVAC SERVICE	1,347.56
916996 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	2,494.82

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Public Works-Parks Maint

132617 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	525.02
132632 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	40,374.29
132652 WESCO RECEIVABLES CORP	SUPPLIES	2,598.42
132659 AT AND T MCI	PHONE	79.48
132668 BOTHMAN INC, ROBERT A	RECYCLED WATER PROJECT	5,350.00
132669 BURGESS, WAYNE	TRAVEL EXPENSE REIMBURSEMENT	149.91
132698 FASTENAL CO	SUPPLIES	72.53
132787 STATE OF CALIFORNIA	SALES TAX	28.17

Public Works-Median/General Land

132561 ACE HARDWARE, ANTIOCH	PVC FITTINGS	12.60
132634 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	59.28
132659 AT AND T MCI	PHONE	148.01
132701 FURBER SAW INC	SUPPLIES	113.60
132743 ORCHARD SUPPLY HARDWARE	SUPPLIES	28.12
132787 STATE OF CALIFORNIA	SALES TAX	49.45

Public Works-Work Alternative

132630 ORCHARD SUPPLY HARDWARE	SUPPLIES	12.97
132701 FURBER SAW INC	SUPPLIES	331.23
132738 NEXTEL SPRINT	CELL PHONE	49.33

Police Administration

132565 ARROWHEAD 24 HOUR TOWING INC	TOWING SERVICES	180.00
132571 BANK OF AMERICA	SUPPLIES	216.23
132572 BANK OF AMERICA	TRAINING-HELGEMO/SUTHERLAND	1,663.15
132583 CANTANDO, ALLAN J	EXPENSE REIMBURSEMENT	329.60
132585 CHOW, PHILLIP J	EXPENSE REIMBURSEMENT	132.52
132594 COSTCO	SUPPLIES	422.67
132596 CSI FORENSIC SUPPLY	EVIDENCE SUPPLIES	495.94
132604 EIDEN, KITTY J	MINUTES CLERK	75.00
132611 GULLO, DAVID	TRAINING	3,500.00
132620 JOHNSON, VIRGINIA L	EXPENSE REIMBURSEMENT	54.36
132629 OFFICE MAX INC	OFFICE SUPPLIES	760.38
132645 SACTO VALLEY SHOOTING CENTER	RANGE FEES	150.00
132650 VERIZON WIRELESS	AIR CARDS	82.37
132672 CANTANDO, ALLAN J	EXPENSE REIMBURSEMENT	75.00
132678 CCC POLICE CHIEFS ASSOC	LECTURE TUITION	360.00
132683 CRIME SCENE CLEANERS INC	CRIME SCENE CLEANUP	145.00
132696 EMBASSY SUITES	LODGING-HEAD	378.87
132702 GACKOWSKI, NICOLE L	PER DIEM	560.00
132703 GALLS INC	HOLSTER	291.08
132705 HEAD, SHIRLEY	PER DIEM	248.50
132720 KIRBY POLYGRAPH & INVESTIGATIVE	POLYGRAPH EXAMINATIONS	300.00
132727 MARRIOTT HOTEL	LODGING WK1-GACKOWSKI	792.00
132728 MARRIOTT HOTEL	LODGING WK2-GACKOWSKI	792.00
132739 NORRIS, VINCENT D	PER DIEM	46.00
132746 OXFORD SUITES	LODGING-SPAINHOWER/NORRIS	184.92

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132766	SBRPSTC	TUITION-GACKOWSKI	350.00
132768	SPAINHOWER, MARLA L	PER DIEM	46.00
132770	SUREFIRE LLC	BATTERIES	110.08
132772	TRAINING FOR SAFETY INCORPORATED	TUITION-IMPASTATO	296.00
132778	UNITED PARCEL SERVICE	SHIPPING	41.34
201463	CCMA	MEETING EXPENSE	70.00
201464	CCMA	MEETING EXPENSE	70.00
201465	SAVE MART SUPERMARKETS	JAIL FOOD	80.17
201466	COMCAST	CABLE SERVICE	25.49
916912	ARATA PRINTING	BUSINESS CARDS	763.16
916916	GRAINGER INC	SUPPLIES	34.26
916918	MARCHOKE, RICHARD	CONSULTING SERVICE	207.73
916951	CRYSTAL CLEAR LOGOS INC	UNIFORM SHIRTS	419.12
916983	HUNTINGTON COURT REPORTERS INC	TRANSCRIPTION SERVICES	609.96
917009	MOBILE MINI LLC	STORAGE CONTAINERS	213.52
Police Prisoner Custody			
132641	PERS	PAYROLL DEDUCTIONS	1,041.00
132756	PERS	PAYROLL DEDUCTIONS	1,041.00
132757	PERS	PAYROLL DEDUCTIONS	1,041.00
Police Community Policing			
132572	BANK OF AMERICA	MEETING EXPENSE	36.10
132594	COSTCO	SUPPLIES	222.03
132616	HUNT AND SONS INC	FUEL	96.27
132640	PERS	PAYROLL DEDUCTIONS	2,625.43
132641	PERS	PAYROLL DEDUCTIONS	11,417.64
132666	RECIPIENT	PENSION PAYMENT	3,637.50
132689	DELTA DENTAL	PAYROLL DEDUCTIONS	6.14
132703	GALLS INC	BATTERIES	452.88
132734	MOORE K9 SERVICES	K-9 TRAINING	250.00
132757	PERS	PAYROLL DEDUCTIONS	1,761.17
201462	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	66.60
Police Traffic Division			
132641	PERS	PAYROLL DEDUCTIONS	3.75
132756	PERS	PAYROLL DEDUCTIONS	3.75
132757	PERS	PAYROLL DEDUCTIONS	3.75
Police Investigations			
132589	CONTRA COSTA COUNTY	LAB TESTING	30,055.00
132730	METRO PCS	PHONE RECORDS	50.00
132771	THOMSON WEST	ONLINE DATABASE	296.10
201462	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	33.05
Police Narcotics			
132570	AUTO WORLD INC	LEASE VEHICLES	2,066.25
132594	COSTCO	EQUIPMENT	303.09
132641	PERS	PAYROLL DEDUCTIONS	1,225.28
132738	NEXTEL SPRINT	CELL PHONE EQUIPMENT	77.20

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Police Communications

132567 AT AND T MCI	PHONE	655.27
132568 AT AND T MCI	PHONE	369.53
132569 AT AND T MOBILITY	HIGH SPEED WIRELESS	103.23
132594 COSTCO	SUPPLIES	115.95
132610 GLOBALSTAR	TELECOMMUNICATIONS SERVICE	87.29
132659 AT AND T MCI	PHONE	798.42
132787 STATE OF CALIFORNIA	SALES TAX	4.24
916946 COMPUTERLAND	EQUIPMENT	637.78

Office Of Emergency Management

132659 AT AND T MCI	PHONE	293.90
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Police Facilities Maintenance

132579 BAY CITIES PYROTECTOR	SPRINKLER TEST	250.00
132615 HONEYWELL INTERNATIONAL INC	HVAC SERVICES	7,608.20
132624 LOWES COMPANIES INC	SUPPLIES	208.56
132628 OAKLEYS PEST CONTROL	PEST CONTROL SERVICE	165.00
132643 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	311.38
132652 WESCO RECEIVABLES CORP	SUPPLIES	148.41
132659 AT AND T MCI	PHONE	265.92
132738 NEXTEL SPRINT	CELL PHONE	2,146.70
201592 LAMPS PLUS	LIGHT	60.57
916916 GRAINGER INC	SUPPLIES	722.90
916996 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	4,411.17

Community Development Land Planning Services

132577 BAY AREA NEWS GROUP	LEGAL AD	112.20
132601 DYETT AND BHATIA	CONSULTING SERVICES	3,416.07
132664 BAY AREA NEWS GROUP	LEGAL AD	379.89

Community Development Neighborhood Improvement

132776 TURNAGE II, KEN	PUBLIC NUISANCE ABATEMENT	1,517.12
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PW Engineer Land Development

132622 KIMLEY HORN AND ASSOCIATES INC	ENGINEERING SERVICES	722.13
132659 AT AND T MCI	PHONE	30.21
132738 NEXTEL SPRINT	CELL PHONE	98.94

Community Development Building Inspection

132629 OFFICE MAX INC	OFFICE SUPPLIES	137.75
132738 NEXTEL SPRINT	CELL PHONE	56.32
132757 PERS	PAYROLL DEDUCTIONS	124.15

Capital Imp. Administration

132738 NEXTEL SPRINT	CELL PHONE	104.31
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Community Development Engineering Services

132738 NEXTEL SPRINT	CELL PHONE	32.55
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213 Gas Tax Fund

Streets

132634 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	116.96
132748 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	11.56

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214 Animal Control Fund

Animal Control

132624	LOWES COMPANIES INC	SUPPLIES	110.89
132693	EAST BAY VETERINARY EMERGENCY	VETERINARY SERVICES	82.84
132694	EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	336.00
132708	HILLS PET NUTRITION	ANIMAL FOOD	151.55
132738	NEXTEL SPRINT	CELL PHONE	40.52
132787	STATE OF CALIFORNIA	SALES TAX	194.09
916996	LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	435.75

215 Civic Arts Fund

Civic Arts

132615	HONEYWELL INTERNATIONAL INC	HVAC SERVICES	271.73
132643	REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	67.60

219 Recreation Fund

Non Departmental

132662	BART	DEPOSIT REFUND	527.00
132751	PAUL, DAVID	DEPOSIT REFUND	500.00

Recreation Admin

132615	HONEYWELL INTERNATIONAL INC	HVAC SERVICES	5,706.44
132641	PERS	PAYROLL DEDUCTIONS	713.66
132643	REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	94.64
132689	DELTA DENTAL	PAYROLL DEDUCTIONS	105.60
132756	PERS	PAYROLL DEDUCTIONS	713.66

Senior Programs

132659	AT AND T MCI	PHONE	95.00
132660	AUTOMATIC DOOR SYSTEMS INC	DOOR REPAIR	673.72
916914	COMPUTERLAND	DATA SWITCH	75.78

Recreation Classes/Prog

132624	LOWES COMPANIES INC	SUPPLIES	15.13
132647	STARGAZERS/TRACI MARTIN	CONTRACTOR PAYMENT	950.00
132682	CPR FAST	CONTRACTOR PAYMENT	259.20
132722	KOVALICK, LUANNE	CONTRACTOR PAYMENT	304.56
201557	LI, XIWEI	CLASS REFUND	58.00
201560	LOWE, JENNIFER	CLASS REFUND	60.00
201561	PIMENTEL, MINERVA	CLASS REFUND	58.00

Recreation Teens

201559	NEOPOST	POSTAGE METER RENTAL	14.02
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Rec After School/AUSD

201558	WALMART	SUPPLIES	16.19
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Recreation Concessions

132753	PEPSI COLA COMPANY	CONCESSION SUPPLIES	516.99
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Recreation-New Comm Cntr

132624	LOWES COMPANIES INC	SUPPLIES	12.93
132630	ORCHARD SUPPLY HARDWARE	SUPPLIES	92.47
132643	REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	405.00
132654	ALL STAR RENTS	EQUIPMENT RENTAL	239.04

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132665 BAY BUILDING MAINTENANCE INC	CUSTODIAL SERVICES	995.00
132675 COMCAST	CONNECTION SERVICE	1,589.35
132709 HILLYARD INDUSTRIES	JANITORIAL SUPPLIES	59.49
132743 ORCHARD SUPPLY HARDWARE	SUPPLIES	103.82
132747 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	2,818.34
221 Asset Forfeiture Fund		
Non Departmental		
132590 CONTRA COSTA COUNTY	ASSET FORFEITURE	269.67
132603 EDWARDS, GIOVANNI	EVIDENCE RETURN	229.00
132618 ILACAQUA, DANIELLE	ASSET FORFEITURE	452.50
132697 FARIA, EDDIE	EVIDENCE RETURN	247.00
132718 JOHNSON, NANCY	EVIDENCE RETURN	647.00
Asset Forfeiture		
132726 LEXIPOL LLC	SUBSCRIPTION RENEWAL	3,900.00
132787 STATE OF CALIFORNIA	SALES TAX	44.87
222 Measure C Fund		
Streets		
132578 BAY CITIES PAVING AND GRADING	HILLCREST PROJECT	47,500.00
229 Pollution Elimination Fund		
Channel Maintenance Operation		
132635 PAPA	SEMINAR REGISTRATION	360.00
132637 PB AMERICAS INC	CONSULTANT SERVICES	2,162.18
132649 TARGET SPECIALTY PRODUCTS	SEMINAR REGISTRATION	177.00
132738 NEXTEL SPRINT	CELL PHONE	49.33
251 Lone Tree SLLMD Fund		
Lonetree Maintenance Zone 1		
132633 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	1,936.00
132659 AT AND T MCI	PHONE	63.01
Lonetree Maintenance Zone 2		
132633 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	1,936.00
132659 AT AND T MCI	PHONE	122.01
Lonetree Maintenance Zone 3		
132659 AT AND T MCI	PHONE	46.62
132748 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	49.51
Lonetree Maintenance Zone 4		
132740 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	1,650.00
252 Downtown SLLMD Fund		
Downtown Maintenance		
132605 EVERGREEN TREE CARE	TREE REMOVAL	1,200.00
253 Almondridge SLLMD Fund		
Almondridge Maintenance		
132740 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	2,350.00
254 Hillcrest SLLMD Fund		
Hillcrest Maintenance Zone 1		
132659 AT AND T MCI	PHONE	31.51

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Hillcrest Maintenance Zone 2

132659 AT AND T MCI PHONE 124.89

Hillcrest Maintenance Zone 4

132659 AT AND T MCI PHONE 91.94

255 Park 1A Maintenance District Fund

Park 1A Maintenance District

132568 AT AND T MCI PHONE 15.87

132632 PACHECO BROTHERS GARDENING INC LANDSCAPE SERVICES 160.00

132748 PACIFIC GAS AND ELECTRIC CO ELECTRIC 41.89

256 Citywide 2A Maintenance District Fund

Citywide 2A Maintenance Zone 9

132659 AT AND T MCI PHONE 63.01

Citywide 2A Maintenance Zone 10

132740 ODYSSEY LANDSCAPE CO INC LANDSCAPE SERVICES 1,490.00

257 SLLMD Administration Fund

SLLMD Administration

132624 LOWES COMPANIES INC SUPPLIES 151.53

132635 PAPA SEMINAR REGISTRATION 1,040.00

132649 TARGET SPECIALTY PRODUCTS SEMINAR REGISTRATION 118.00

132738 NEXTEL SPRINT CELL PHONE 119.81

259 East Lone Tree SLLMD Fund

Zone 1-District 10

132599 DELTA FENCE CO FENCE REPAIR 1,985.00

132634 PACIFIC GAS AND ELECTRIC CO ELECTRIC 98.07

132740 ODYSSEY LANDSCAPE CO INC LANDSCAPE SERVICES 2,400.00

132748 PACIFIC GAS AND ELECTRIC CO ELECTRIC 24.06

311 Capital Improvement Fund

Public Buildings & Facilities

132613 HARRISON ENGINEERING INC ENGINEERING SERVICES 14,246.25

312 Prewett Family Park Fund

Parks & Open Space

132760 REX LOCK AND SAFE INC WELDING SERVICE 855.94

319 Residential Dev Alloc Fund

Non Departmental

132676 CONTRA COSTA COUNTY MAINTENANCE SERVICE 29,976.40

376 Lone Diamond Fund

Assessment District

132642 PUBLIC STORAGE STORAGE FEES 501.00

570 Equipment Maintenance Fund

Non Departmental

132616 HUNT AND SONS INC FUEL 12,157.33

132711 HUNT AND SONS INC FUEL 7,722.25

Equipment Maintenance

132563 ANTIOCH AUTO PARTS DRAIN PLUGS 1,050.10

132586 CHUCKS BRAKE AND WHEEL SERVICE STARTER 361.23

132591 CONTRA COSTA FIRE EQUIPMENT FIRE EXTINGUISHER SERVICE 228.90

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132592	CONTRA COSTA HOSE AND FITTINGS	HIGH PRESSURE HOSE	259.54
132593	CONTROLLED ENVIRONMENTAL	FUEL HOSE REPAIR	1,663.56
132639	PRECISION BRAKE AND FRONT END	AUTO REPAIR SERVICES	371.09
132651	WALNUT CREEK FORD	TUBE & SWITCH	237.49
132773	TRED SHED, THE	TIRES	1,819.29
132787	STATE OF CALIFORNIA	SALES TAX	157.55

573 Information Services Fund

Information Services

132659	AT AND T MCI	PHONE	57.96
132738	NEXTEL SPRINT	CELL PHONE	49.33
132780	VERIZON WIRELESS	AIR CARD	45.01

Network Support & PCs

132568	AT AND T MCI	PHONE	357.32
132659	AT AND T MCI	PHONE	92.50
132675	COMCAST	CONNECTION SERVICE	1,051.15
132738	NEXTEL SPRINT	CELL PHONE	107.30

Telephone System

132566	AT AND T MCI	PHONE	17.80
132568	AT AND T MCI	PHONE	2,523.46
132659	AT AND T MCI	PHONE	0.64

GIS Support Services

132582	CALIFORNIA SURVEYING & DRAFTING	TONER	358.86
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Office Equipment Replacement

132706	HEWLETT PACKARD COMPANY	DESKTOP	831.56
916939	CDW GOVERNMENT INC	HARD DRIVES	963.32
916946	COMPUTERLAND	EQUIPMENT	637.78

577 Post Retirement Medical-Police Fund

Non Departmental

132641	PERS	MEDICAL AFTER RETIREMENT	3,242.66
132653	RETIREE	MEDICAL AFTER RETIREMENT	193.22
132671	RETIREE	MEDICAL AFTER RETIREMENT	498.44
132724	RETIREE	MEDICAL AFTER RETIREMENT	776.25
132729	RETIREE	MEDICAL AFTER RETIREMENT	40.61
132735	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
132756	PERS	MEDICAL AFTER RETIREMENT	3,242.66
132757	PERS	MEDICAL AFTER RETIREMENT	3,242.66
132765	RETIREE	MEDICAL AFTER RETIREMENT	40.61
132783	RETIREE	MEDICAL AFTER RETIREMENT	776.25
916921	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
916926	RETIREE	MEDICAL AFTER RETIREMENT	1,013.38
916929	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
916938	RETIREE	MEDICAL AFTER RETIREMENT	986.79
916940	RETIREE	MEDICAL AFTER RETIREMENT	929.00
916944	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
916947	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
916957	RETIREE	MEDICAL AFTER RETIREMENT	848.86

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916961	RETIREE	MEDICAL AFTER RETIREMENT	791.00
916962	RETIREE	MEDICAL AFTER RETIREMENT	193.22
916973	RETIREE	MEDICAL AFTER RETIREMENT	165.81
916977	RETIREE	MEDICAL AFTER RETIREMENT	193.22
916980	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
916981	RETIREE	MEDICAL AFTER RETIREMENT	1,088.88
916982	RETIREE	MEDICAL AFTER RETIREMENT	123.73
916991	RETIREE	MEDICAL AFTER RETIREMENT	165.81
917008	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
917011	RETIREE	MEDICAL AFTER RETIREMENT	498.44
917021	RETIREE	MEDICAL AFTER RETIREMENT	304.35
917023	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
917025	RETIREE	MEDICAL AFTER RETIREMENT	803.66
917035	RETIREE	MEDICAL AFTER RETIREMENT	498.44
917050	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
917054	RETIREE	MEDICAL AFTER RETIREMENT	498.44

578 Post Retirement Medical-Misc Fund

Non Departmental

132641	PERS	MEDICAL AFTER RETIREMENT	5,499.31
132687	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132688	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132692	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132719	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132732	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132744	RETIREE	MEDICAL AFTER RETIREMENT	124.69
132756	PERS	MEDICAL AFTER RETIREMENT	6,070.69
132757	PERS	MEDICAL AFTER RETIREMENT	6,294.42
132758	RETIREE	MEDICAL AFTER RETIREMENT	124.69
132761	RETIREE	MEDICAL AFTER RETIREMENT	597.38
132764	RETIREE	MEDICAL AFTER RETIREMENT	124.69
132767	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132774	RETIREE	MEDICAL AFTER RETIREMENT	271.44
132782	RETIREE	MEDICAL AFTER RETIREMENT	472.20
916922	RETIREE	MEDICAL AFTER RETIREMENT	320.43
916923	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916924	RETIREE	MEDICAL AFTER RETIREMENT	225.99
916928	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916932	RETIREE	MEDICAL AFTER RETIREMENT	242.69
916934	RETIREE	MEDICAL AFTER RETIREMENT	242.69
916936	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916942	RETIREE	MEDICAL AFTER RETIREMENT	242.69
916945	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916948	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916952	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916956	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916959	RETIREE	MEDICAL AFTER RETIREMENT	165.81

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916960	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916963	RETIREE	MEDICAL AFTER RETIREMENT	84.00
916965	RETIREE	MEDICAL AFTER RETIREMENT	165.81
916968	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916969	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916971	RETIREE	MEDICAL AFTER RETIREMENT	423.63
916976	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916979	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916986	RETIREE	MEDICAL AFTER RETIREMENT	242.69
916987	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916990	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916993	RETIREE	MEDICAL AFTER RETIREMENT	242.69
916995	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916999	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917002	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917004	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917007	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917017	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917018	RETIREE	MEDICAL AFTER RETIREMENT	124.69
917027	RETIREE	MEDICAL AFTER RETIREMENT	242.69
917030	RETIREE	MEDICAL AFTER RETIREMENT	242.69
917034	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917040	RETIREE	MEDICAL AFTER RETIREMENT	124.69
917048	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917052	RETIREE	MEDICAL AFTER RETIREMENT	120.36
917053	RETIREE	MEDICAL AFTER RETIREMENT	165.81
917061	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917062	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917063	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917064	RETIREE	MEDICAL AFTER RETIREMENT	242.69
917065	RETIREE	MEDICAL AFTER RETIREMENT	124.69

579 Post Retirement Medical-Mgmt Fund

Non Departmental

132641	PERS	MEDICAL AFTER RETIREMENT	8,612.55
132674	RETIREE	MEDICAL AFTER RETIREMENT	901.90
132681	RETIREE	MEDICAL AFTER RETIREMENT	182.69
132700	RETIREE	MEDICAL AFTER RETIREMENT	124.69
132704	RETIREE	MEDICAL AFTER RETIREMENT	242.69
132712	RETIREE	MEDICAL AFTER RETIREMENT	400.00
132725	RETIREE	MEDICAL AFTER RETIREMENT	597.38
132733	RETIREE	MEDICAL AFTER RETIREMENT	762.38
132750	RETIREE	MEDICAL AFTER RETIREMENT	124.69
132756	PERS	MEDICAL AFTER RETIREMENT	8,608.47
132757	PERS	MEDICAL AFTER RETIREMENT	8,498.38
132759	RETIREE	MEDICAL AFTER RETIREMENT	752.86
132785	RETIREE	MEDICAL AFTER RETIREMENT	165.81

Prepared by: Georgina Meek
 Finance Accounting

4/5/2012

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916927	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916930	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916931	RETIREE	MEDICAL AFTER RETIREMENT	254.87
916933	RETIREE	MEDICAL AFTER RETIREMENT	382.69
916935	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916937	RETIREE	MEDICAL AFTER RETIREMENT	901.90
916941	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916943	RETIREE	MEDICAL AFTER RETIREMENT	165.81
916949	RETIREE	MEDICAL AFTER RETIREMENT	752.86
916950	RETIREE	MEDICAL AFTER RETIREMENT	124.69
916953	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916954	RETIREE	MEDICAL AFTER RETIREMENT	477.38
916955	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916958	RETIREE	MEDICAL AFTER RETIREMENT	320.43
916964	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916966	RETIREE	MEDICAL AFTER RETIREMENT	901.90
916967	RETIREE	MEDICAL AFTER RETIREMENT	242.69
916970	RETIREE	MEDICAL AFTER RETIREMENT	1,006.50
916972	RETIREE	MEDICAL AFTER RETIREMENT	280.20
916974	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916975	RETIREE	MEDICAL AFTER RETIREMENT	443.62
916984	RETIREE	MEDICAL AFTER RETIREMENT	854.68
916988	RETIREE	MEDICAL AFTER RETIREMENT	727.38
916989	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916992	RETIREE	MEDICAL AFTER RETIREMENT	320.43
916994	RETIREE	MEDICAL AFTER RETIREMENT	597.38
916997	RETIREE	MEDICAL AFTER RETIREMENT	361.38
916998	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917000	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
917001	RETIREE	MEDICAL AFTER RETIREMENT	242.69
917003	RETIREE	MEDICAL AFTER RETIREMENT	242.69
917005	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917006	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917010	RETIREE	MEDICAL AFTER RETIREMENT	920.60
917012	RETIREE	MEDICAL AFTER RETIREMENT	165.81
917013	RETIREE	MEDICAL AFTER RETIREMENT	320.43
917014	RETIREE	MEDICAL AFTER RETIREMENT	182.69
917015	RETIREE	MEDICAL AFTER RETIREMENT	597.38
917016	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917019	RETIREE	MEDICAL AFTER RETIREMENT	124.69
917020	RETIREE	MEDICAL AFTER RETIREMENT	124.69
917022	RETIREE	MEDICAL AFTER RETIREMENT	477.38
917024	RETIREE	MEDICAL AFTER RETIREMENT	1,108.88
917026	RETIREE	MEDICAL AFTER RETIREMENT	124.69
917028	RETIREE	MEDICAL AFTER RETIREMENT	361.38
917029	RETIREE	MEDICAL AFTER RETIREMENT	361.38

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917031 RETIREE	MEDICAL AFTER RETIREMENT	242.69
917032 RETIREE	MEDICAL AFTER RETIREMENT	361.38
917033 RETIREE	MEDICAL AFTER RETIREMENT	382.69
917036 RETIREE	MEDICAL AFTER RETIREMENT	901.90
917037 RETIREE	MEDICAL AFTER RETIREMENT	597.38
917038 RETIREE	MEDICAL AFTER RETIREMENT	727.38
917039 RETIREE	MEDICAL AFTER RETIREMENT	124.69
917041 RETIREE	MEDICAL AFTER RETIREMENT	752.86
917042 RETIREE	MEDICAL AFTER RETIREMENT	124.69
917043 RETIREE	MEDICAL AFTER RETIREMENT	901.90
917044 RETIREE	MEDICAL AFTER RETIREMENT	762.30
917045 RETIREE	MEDICAL AFTER RETIREMENT	161.21
917047 RETIREE	MEDICAL AFTER RETIREMENT	124.69
917049 RETIREE	MEDICAL AFTER RETIREMENT	597.38
917051 RETIREE	MEDICAL AFTER RETIREMENT	320.43
917055 RETIREE	MEDICAL AFTER RETIREMENT	1,946.46
917056 RETIREE	MEDICAL AFTER RETIREMENT	361.38
917057 RETIREE	MEDICAL AFTER RETIREMENT	752.86
917058 RETIREE	MEDICAL AFTER RETIREMENT	727.38
917059 RETIREE	MEDICAL AFTER RETIREMENT	124.69
917060 RETIREE	MEDICAL AFTER RETIREMENT	320.43

580 Loss Control Fund

Human Resources

132714 IEDA INC	PROFESSIONAL SERVICES	7,768.92
132738 NEXTEL SPRINT	CELL PHONE	21.15

611 Water Fund

Non Departmental

132563 ANTIOCH AUTO PARTS	SUPPLIES	648.96
132612 HALL, BRIAH	CHECK REPLACEMENT	10.45
132644 ROBERTS AND BRUNE CO	SUPPLIES	26,263.63
132652 WESCO RECEIVABLES CORP	SUPPLIES	205.76
132655 ANGLIM FLAGS	FLAG STOCK	385.02
132716 JC NELSON SUPPLY CO	TOWELS	1,018.74
201581 WORK WORLD	UNIFORM PANTS	37.88
916915 GOLDEN WEST BETTERWAY UNIFORMS	SUPPLIES	5,355.75
916916 GRAINGER INC	SUPPLIES	1,684.60
916917 HAMMONS SUPPLY COMPANY	SUPPLIES	818.37

Water Supervision

132738 NEXTEL SPRINT	CELL PHONE	61.88
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Water Production

132563 ANTIOCH AUTO PARTS	OIL	12.77
132568 AT AND T MCI	PHONE	66.22
132574 BAY AREA AIR QUALITY MGMT DIST	CANAL WEST GENERATOR FEES	473.00
132609 FISHER SCIENTIFIC COMPANY	LAB SUPPLIES	1,240.90
132624 LOWES COMPANIES INC	ELECTRICAL PARTS	56.68
132630 ORCHARD SUPPLY HARDWARE	TORCH	72.50

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132634 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	19.71
132640 PERS	PAYROLL DEDUCTIONS	99.54
132652 WESCO RECEIVABLES CORP	ELECTRICAL SUPPLIES	92.57
132658 ASCO SERVICES INC	TRANSFER SWITCH SERVICE	549.76
132659 AT AND T MCI	PHONE	751.01
132685 CRWA	REGISTRATION-ANDERSON	390.00
132686 CSI SERVICES	DIVER SERVICE	4,990.00
132711 HUNT AND SONS INC	FUEL	7,056.71
132723 LAW OFFICE OF MATTHEW EMRICK	LEGAL SERVICES	4,207.50
132738 NEXTEL SPRINT	CELL PHONE	63.45
132755 POLYDYNE INC	POLYMER	1,485.00
132787 STATE OF CALIFORNIA	SALES TAX	208.87
916996 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	658.60
Water Distribution		
132564 ANTIOCH BUILDING MATERIALS	ASPHALT MATERIALS	9,120.69
132575 BAY AREA BARRICADE	SUPPLIES	263.51
132584 CHADWICK, JEFFREY D	EXPENSE REIMBURSEMENT	45.00
132587 COLEY, TIMOTHY P	EXPENSE REIMBURSEMENT	349.19
132595 COUNTY ASPHALT	ASPHALT	621.88
132600 DELTA GRINDING CO INC	EQUIPMENT RENTAL	1,516.67
132624 LOWES COMPANIES INC	SUPPLIES	78.22
132644 ROBERTS AND BRUNE CO	PIPE & FITTINGS	14,060.51
132646 SHARP BUSINESS SYSTEMS	PRINTER PARTS	213.77
132659 AT AND T MCI	PHONE	15.75
132668 BOTHMAN INC, ROBERT A	RECYCLED WATER PROJECT	121,625.00
132679 CONTRA COSTA HOSE AND FITTINGS	HOSE REPAIR	214.87
132690 DELTA DIABLO SANITATION DISTRICT	RECYCLED WATER TESTING	20,020.01
132731 MICHAEL H CLEMENT CORP	DRAIN BOX	5,663.32
132738 NEXTEL SPRINT	CELL PHONE	252.23
132747 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	10,491.00
916919 TELFER OIL COMPANY	SUPPLIES	283.50
Water Meter Reading		
132738 NEXTEL SPRINT	CELL PHONE	10.57
916913 BADGER METER INC	WATER METER	2,529.07
916925 BADGER METER INC	CONNECTOR	90.01
Public Buildings & Facilities		
132748 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	971.98
132757 PERS	PAYROLL DEDUCTIONS	813.54
Warehouse & Central Stores		
132738 NEXTEL SPRINT	CELL PHONE	49.33
132778 UNITED PARCEL SERVICE	WEEKLY PRINTER SERVICE FEE	4.00
201582 AIRGAS NCN	TANK RENTAL	23.06
612 Water Line Expansion Fund		
Water Systems		
132577 BAY AREA NEWS GROUP	LEGAL AD	277.18

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621 Sewer Fund

Sewer-Wastewater Supervision

132621 RECIPIENT	CLAIM SETTLEMENT	100,000.00
132738 NEXTEL SPRINT	CELL PHONE	21.15

Sewer-Wastewater Collection

132595 COUNTY ASPHALT	ASPHALT	1,865.62
132606 FAST RESPONSE ON SITE TESTING	RESPIRATOR TESTING	1,362.60
132644 ROBERTS AND BRUNE CO	PIPE & FITTINGS	485.22
132659 AT AND T MCI	PHONE	31.93
132691 DELTA FENCE CO	FENCE SUPPLIES	1,428.90
132738 NEXTEL SPRINT	CELL PHONE	91.83

Wastewater Collection

132757 PERS	PAYROLL DEDUCTIONS	813.54
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631 Marina Fund

Non Departmental

132684 CRUME, LARRY	BERTH DEPOSIT REFUND	167.87
132752 PEHL, SUE	BERTH DEPOSIT REFUND	162.08

Marina Administration

132643 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	65.63
132659 AT AND T MCI	PHONE	67.97
132736 NASH, LAWRENCE E	EXPENSE REIMBURSEMENT	90.00
201506 RECREATION PUBLICATIONS	ADVERTISING	33.75

Marina Maintenance

132624 LOWES COMPANIES INC	SUPPLIES	38.33
132740 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	1,780.00
201591 BIG B LUMBER	DOCK LUMBER	67.75
916996 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	1,355.14

Major Projects

132607 FEDEX	SHIPPING	23.17
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641 Prewett Water Park Fund

Non Departmental

132745 OSIUHWU, SOPHIA	DEPOSIT REFUND	300.00
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Rec - Prewett Admin

132624 LOWES COMPANIES INC	SUPPLIES	24.86
132643 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	196.88
132659 AT AND T MCI	PHONE	45.59
132713 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	211.14
132717 JEFF ELLIS AND ASSOCIATES INC	LIFEGUARD TRAINING	1,127.00
132721 KNORR SYSTEMS INC	CARBON DIOXIDE	526.02
132747 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	1,879.16
132769 STERICYCLE INC	WASTE PICK UP	144.91
132787 STATE OF CALIFORNIA	SALES TAX	10.64

Recreation Aquatics

132787 STATE OF CALIFORNIA	SALES TAX	59.80
916985 JONES AND BARTLETT LEARNING LLC	TRAINING LITERATURE	788.69

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Rec Prewett Concessions

132659 AT AND T MCI	PHONE	45.64
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721 Employee Benefits Fund

Non Departmental

132562 AFLAC	PAYROLL DEDUCTIONS	8,495.72
132640 PERS	PAYROLL DEDUCTIONS	259,863.42
132641 PERS	PAYROLL DEDUCTIONS	261,109.57
132667 BLUE SHIELD LIFE	PAYROLL DEDUCTIONS	1,805.09
132677 CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	400.00
132689 DELTA DENTAL	PAYROLL DEDUCTIONS	25,372.94
132742 OPERATING ENGINEERS LOCAL NO 3	PAYROLL DEDUCTIONS	569.91
132754 PERS LONG TERM CARE	PAYROLL DEDUCTIONS	92.66
132756 PERS	PAYROLL DEDUCTIONS	266,950.22
132757 PERS	PAYROLL DEDUCTIONS	263,352.64
132777 UNION BANK OF CALIF	PAYROLL DEDUCTIONS	3,408.46
132779 US DEPT OF EDUCATION	PAYROLL DEDUCTIONS	316.48

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF APRIL 10, 2012**

Prepared by: Mindy Gentry, Senior Planner *MG*

Approved by: Tina Wehrmeister, Community Development Director *TW*

Date: April 5, 2012

Subject: RDA Ordinance Extension (Z-12-01)

RECOMMENDATION

It is recommended the City Council adopt the attached ordinance to amend Municipal Code Section 9-5.4012 in order to extend the sunset date of the Residential Development Allocation Ordinance to May 1, 2013.

BACKGROUND INFORMATION

This item was continued on March 27, 2012. The ordinance was introduced by the Council on March 13, 2012. The Council made no changes to the ordinance at this meeting.

ENVIRONMENTAL

Pursuant to CEQA Statutes Section 15061(b) (3) the RDA Ordinance extension is exempt because there is no possibility that the extension of the ordinance for one year will have a significant effect on the environment.

FINANCIAL IMPACT

None.

OPTIONS

The recommended action is consistent with the City Council's introduction of the ordinance on March 13, 2012.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ANTIOCH AMENDING SECTION 9-5.4012 OF THE ANTIOCH MUNICIPAL CODE REGARDING SUNSET OF THE RESIDENTIAL DEVELOPMENT ALLOCATION PROGRAM ORDINANCE

The City Council of the City of Antioch do ordain as follows:

SECTION 1. Recitals and Findings (not to be codified). Section 9-5.4012 of the Antioch Municipal Code provides that the Residential Development Allocation Program Ordinance (“RDA Ordinance”) will sunset on May 1, 2012 unless the City Council adopts an ordinance to re-enact or amend it. This sunset provision was added to the ordinance in 2005 and was not part of the original ordinance. On December 8, 2009, the City Council adopted a resolution of intention to initiate an amendment to the RDA Ordinance in order to continue to phase the rate of residential growth in the City consistent with Measure U due to on-going factors such as: infrastructure and public facility needs including but not limited to highway improvements, school capacity and police services; provision of housing opportunities for all economic segments of the community; requirement to meet regional housing allocation numbers; and desire to encourage reinvestment in older neighborhoods. On January 26, 2010, the City Council provided further direction to staff regarding an amendment to the RDA Ordinance particularly as to development impact fees and growth metering and directed that staff work with the existing RDA Subcommittee to further discuss issues and draft amendments to the RDA Ordinance. On March 3, 2010, the City Council approved an extension of the sunset date of the RDA Ordinance to May 1, 2011 and on March 22, 2011 the City Council again extended the sunset date to May 1, 2012. However, due to timing constraints and limited staff resources, additional time will be needed for this effort, so the City Council finds that it is appropriate to extend the sunset date of the RDA Ordinance by 12 months to May 1, 2013.

SECTION 2. Amendment to the Municipal Code. Section 9-5.4012 is amended to read as follows:

§9-5.4012 SUNSET OF ARTICLE.

This article shall have no further validity or effectiveness following May 1, 2013. At that time, the City Council shall re-examine the factors leading to the adoption of this article, as specified in Sections 9-5.4002 and 9-5.4004. If such factors continue to exist at that time, the Council may adopt an ordinance re-enacting and/or amending this article.

SECTION 3. CEQA. This Ordinance amendment is subject to the CEQA exemption contained in CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment. The environmental review for the RDA Ordinance was a Mitigated Negative Declaration filed in 2002. The RDA Ordinance was subsequently incorporated into the General Plan’s Growth Management Element with environmental review pursuant to an Environmental

Impact Report dated 2003. Neither the original RDA ordinance nor the General Plan contained the sunset clause, so there are no changes or additions necessary to either the Mitigated Negative Declaration for the RDA Ordinance or to the EIR for the General Plan. Further, extending for one year the sunset clause subsequently added to the RDA ordinance is not a substantial change to the RDA ordinance that would require major revisions to the General Plan EIR or additional environmental review pursuant to the Mitigated Negative Declaration for the original RDA Ordinance. In addition, there have not been substantial changes in circumstances or new information that would require a subsequent EIR.

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 6. Publication; Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at adjourned regular meeting of the City Council of the City of Antioch held on the 13th day of March 2012 and passed and adopted at a regular meeting thereof, held on 10th day of April 2012, by the following vote:

AYES:

NOES:


ABSENT:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF APRIL 10, 2012**

Prepared by: Victor Carniglia, Planning Consultant 
Date: April 4, 2012
Subject: Z-12-02: Prezoning of Area #1 of the Northeast Antioch Area

Staff is requesting that the public hearing on the prezoning be continued to the City Council meeting of April 24, 2012 at 7p.m. due to scheduling constraints.

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF APRIL 10, 2012**

Prepared by: Tina Wehrmeister, Community Development Director 

Date: April 5, 2012

Subject: Adoption of an Urgency Ordinance Extending a Temporary Moratorium on the issuance of permits, licenses or approvals for construction, establishment or operation of Computer Gaming and Internet Access Businesses

RECOMMENDATION

It is recommended that the City Council adopt the attached urgency ordinance extending a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Computer Gaming and Internet Access Businesses within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of 10 months and 15 days and declaring the urgency to do so (four-fifths vote).

BACKGROUND / DISCUSSION

On February 28, 2012 the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Computer Gaming and Internet Access Businesses. The staff report for that City Council meeting is included as Attachment "A" and provides more details regarding the issue and the urgent need for a temporary moratorium to address public safety, health and welfare issues raised by these Computer Gaming and Internet Access Businesses (as defined in the ordinance).

Pursuant to Government Code Section 65858 this moratorium is effective for 45 days and can be extended for up to a total of 2 years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium.

Although the City Council adopted Urgency Ordinance No. 2053 on February 28, 2012 and Ordinance No. 2054-C-S on March 13, 2012 adding Chapter 11 of Title 5 of the Antioch Municipal Code (Attachment "B") regarding licensing procedures and certain operational regulations for Computer Gaming and Internet Access Businesses, the current provisions do not fully take into account the impacts related to the location, concentration and manner of construction, establishment and operation of these uses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community that could be addressed with a zoning ordinance.

Due to staffing levels, the complexity of the issues to be studied and the ongoing public safety, health and welfare issues raised by Computer Gaming and Internet Access businesses, it is recommended that the moratorium be extended for 10 months and 15 days. Any further

extension would require an additional noticed public hearing. Proper noticing procedures were followed in advance of this item being placed on the agenda.

Staff recommends that expansion of the use (e.g. more computer terminals) not be allowed so as to not increase the potential for conflicts with land use regulations under consideration, but that expansion of space to allow compliance with the licensing procedures and regulations in Title 5 of the Antioch Municipal Code be allowed, such as if more space is needed to create an indoor waiting area in order to decrease loitering outside of these businesses.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed urgency ordinance. However, it is expected that limiting the number of Computer Gaming and Internet Access Businesses will reduce the drain on police services, while considering appropriate zoning regulations related to these uses. There will be staff time expended to prepare the zoning ordinance addressing Computer Gaming and Internet Access Businesses.

OPTIONS

The Council may choose not to adopt the urgency ordinance extending the moratorium. This will leave the City without a zoning ordinance specifically addressing Computer Gaming and Internet Access Businesses.

ATTACHMENTS

- A. February 28, 2012 staff report
- B. Ordinance No. 2054-C-S Adding Chapter 11 to Title 5 to the Antioch Municipal Code

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours, creating unknown impacts on the surrounding area and businesses, such as observed

lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

F. The City of Antioch, as well as neighboring cities, has experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows and as further described in attachments to the staff report:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service at that location and at neighboring businesses have increased from 109 to 259 over a twelve month period since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

G. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Computer Gaming and Internet Access Businesses that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by Computer Gaming and Internet Access Businesses. In particular, although the City Council adopted Urgency Ordinance No. 2053 on February 28, 2012 and Ordinance No. 2054-C-S on March 13, 2012 adding Chapter 11 of Title of the Antioch Municipal Code regarding licensing procedures and certain operational regulations, the current provisions do not fully take into account the impacts related to the location, concentration and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community that could be addressed with a zoning ordinance.

The City requires additional time to prepare, evaluate and adopt reasonable regulations, including land use regulations through a zoning ordinance, regarding the construction, placement and operation of Computer Gaming and Internet Access Businesses so that such regulations are applied in a nondiscriminatory manner.

H. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

I. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Computer Gaming and Internet Access Businesses in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

J. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Computer Gaming and Internet Access Business.

K. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by State or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

L. City staff has provided a staff report indicating that additional time is needed to study these complicated issues and noticed a public hearing for April 10, 2012 for the City Council's consideration of an extension of the temporary moratorium.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Computer Gaming and Internet Access Businesses. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities.** In accordance with the authority granted the City of Antioch under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, the moratorium adopted by the City Council on February 28, 2012 is extended for 10 months and 15 days from the date of this ordinance. No permit or any other applicable license or entitlement for use, including, but not limited to, the issuance of a business license, business permit, building permit, conditional use permit, or zoning text amendment shall be approved or issued for the establishment or operation of a Computer Gaming and Internet Access Business in the City of Antioch. Additionally, Computer Gaming and Internet Access Business are hereby expressly prohibited in all areas and zoning districts of the City. The two existing Computer Gaming and Internet Access Businesses may continue to operate at their current locations: Internet Room at 2962 Delta Fair Boulevard and Cot on the Web at 2333 Buchanan Road. No expansion of the number of computer terminals is allowed. Expansion of tenant floor space is permitted in order

to allow compliance with the licensing procedures and regulations in Title 5, Chapter 11 of the Antioch Municipal Code.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

2. "Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 10th day of April, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

ATTACHMENT "A"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF FEBRUARY 28, 2012

Prepared by: Tina Wehrmeister, Community Development Director 
Reviewed by: Jim Jakel, City Manager 
Date: February 23, 2012
Subject: Computer Gaming and Internet Access Businesses

RECOMMENDATION

It is recommended that the City Council:

1. Motion to read the Interim Urgency Zoning Ordinance, Urgency Ordinance and Regular Ordinance by title only;
2. Motion to adopt the attached Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any computer gaming and internet access business within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof (four-fifths vote required) (Attachment "A");
3. Motion to adopt an Urgency Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses and making findings declaring the urgency thereof (four-fifths vote required) (Attachment "B");
4. Motion to introduce a Regular Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses (majority vote required) (Attachment "C"); and
5. Motion to adopt a resolution to initiate an amendment to the Zoning Ordinance to address computer gaming and internet access businesses (majority vote required) (Attachment "D").

BACKGROUND INFORMATION

Operations at Internet Room, T's Internet Café and Cot on the Web

During the past two years, the City received business license applications for the Internet Room (2962 Delta Fair Boulevard), T's Internet Café (1908 A Street and previously at 1836 A Street and 1653 A Street) and Cot on the Web (2333 Buchanan Road), which were described as offering "print, copy, fax services and internet access" or "internet sales" (Attachment "E"). In effect, City staff envisioned Kinko's-like businesses offering copying, computer and fax services

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to small businesses and individuals and thus the businesses were allowed to open as permitted uses at the given locations.

However, the City began receiving complaints regarding nuisance and illegal activities occurring in and near these facilities, such as loitering, vandalism, panhandling, theft, and assaults. The Police Department prepared a summary chart showing calls at each location and the surrounding vicinity before and during the time the use opened (Attachment "F"). Of particular note, at 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

Attachment "G" shows 9-1-1 calls for service at each location. The Police Department also indicates that the following number of arrests were made at each location for the given time period. This does not mean that all of the arrested individuals committed crimes at these locations, but reflects that those engaged in criminal activity frequent these locations. The arrests were for violations including robbery, illegal drug use and sales, burglary, assaults, public intoxication, as well as arrests for outstanding warrants:

<u>Business</u>	<u>Location</u>	<u>Time Period</u>	<u># Arrests</u>
Internet Room	2962 Delta Fair Blvd.	2/11/11-02/15/12	2
T's Internet Café	1908 A Street	08/20/11-12/31/11	9
T's Internet Café	1653 A Street	09/01/10-08/31/11	14
T's Internet Café	1836 A Street	03/06/10-07/23/10	5
Cot on the Web	2333 Buchanan #A	09/01/11-02/15/12	1

Upon visiting these businesses during the course of investigating complaints, staff found that the primary activity of the patrons at each of these locations is playing a sweepstakes game, which resembles video slot machines. A copy of the "Sweepstakes Rules" from the Cot on the Web is attached (Attachment "H"). Concerns were raised that the on-going "sweepstakes games" appeared to be potentially illegal gambling; although, that is not the focus of the action before the City Council.

Ms. Simmons, the owner of T's Internet Café (now closed) and Cot on the Web has stated that her business sells internet time and also runs a sweepstakes as a promotional tool to draw customers. The customer receives a number of sweepstakes entries proportional to the amount of internet time purchased. The customer then plays the sweepstakes entries on the computer via an interface that resembles a video slot machine. At Cot on the Web, the potential maximum single winnings are over \$1,000. At the Internet Room, staff was told that a maximum single winning payout could reach \$2,800.

Determination that Use was a Mechanical or Electrical Game

With rising concerns about the general health, safety, and welfare of the community, staff determined that the primary activity at these facilities was not offering internet, copy, print and fax services to small businesses, but rather a gaming business. Putting aside whether this gaming activity is illegal gambling under state law, the Community Development Director

determined that the use was more properly classified as a Mechanical or Electronic Game, pursuant to Municipal Code Section 9-5.3816 (Attachment "I"). Such uses are prohibited within 1000 feet of a playground or school and a use permit is required for other locations.

Once this determination was made, staff sent Notices of Violation to the existing internet café/sweepstakes businesses and did not permit T's Internet Café to relocate without first obtaining a use permit (Attachment "J"). The owners of all three businesses have appealed that determination (Attachment "K"). In part, Allan Moore, the attorney for the Internet Room, indicates that his client is engaged in internet activities protected by the First Amendment and that the California Appellate Court in *Vo v. City of Garden Grove* (115 Cal. App. 4th 425(2004)) does not allow for unfettered discretion in issuing a use permit for such a use. However, in discussions with staff, the businesses expressed a willingness to work with the City to address the concerns through appropriate regulations.

Urgency Ordinance

To adopt a regular ordinance, a first reading of the ordinance is held and then a second reading to adopt the ordinance at a regular meeting of the City Council. A regular ordinance is effective 30 days after adoption. An urgency ordinance is adopted at one meeting and takes effect immediately following a 4/5 vote of the City Council finding that there is a need for the immediate preservation of the public peace, health and safety.

It is not uncommon for a city council to adopt an urgency ordinance followed by taking the steps to adopt a regular ordinance in case there is any question about the findings for the immediate preservation of the public peace, health and safety.

Interim Ordinances/Moratoriums

An interim zoning ordinance is often called a moratorium and takes effect immediately to prohibit a use. Pursuant to Government Code Section 65858, the City may establish a moratorium prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the Planning Department is considering in order to protect and preserve the public safety, health and welfare. A moratorium lasts only 45 days, but may be extended for up to a total of two (2) years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium. Interim ordinances require a 4/5 vote of the City Council.

In order to initiate a zoning ordinance, a Resolution of Initiation is required by the Antioch Municipal Code directing staff, and then presumably the Planning Commission, to consider whether amendments to the zoning ordinance (Title 9 of the Antioch Municipal Code) are appropriate.

DISCUSSION

Rather than continue to debate whether the existing computer gaming and internet access businesses fall within the existing Mechanical or Electronic Game Ordinance in Antioch Municipal Code Section 9-5.3816 through appeals to the Board of Administrative Appeals, staff recommends that the City Council use its regulatory police power to study and address these uses and their impacts. Staff proposes the following definition for these uses:

“Computer Gaming and Internet Access Business” shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer (“PC”) café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

“Public Use or Internet Learning Center” shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

It is presumed that the businesses would not feel compelled to continue with their appeals of the Community Development Director’s determination that their businesses fall under Mechanical or Electronic Game Ordinance in Antioch Municipal Code Section 9-5.3816, as the more specific Interim Zoning Ordinance and Urgency Ordinance will in effect supersede the application of the Mechanical or Electronic Game Ordinance making the appeals moot.

During this study period, no new computer gaming and internet access businesses could open and the existing two businesses would be required to follow the regulations set forth in the Urgency Ordinance (Attachment “B”). This approach should alleviate any concerns that the City is negatively impacting anyone’s ability to access the internet and possible First Amendment rights. During this study period, City staff can meet with the representatives of these businesses to better address the issues that have been raised.

It should also be noted that computers accessing the internet are available at no charge at the Library Annex at the Antioch Community Center at Prewett Park and at the Antioch Library located at 501 W. 18th Street.

Urgency Findings

The existing computer gaming and internet access businesses have created impacts that create immediate threats to the public peace, health or safety, as more specifically shown in the testimony provided by the Police Department including the log of the calls for service at each facility; summary showing calls for service at each location and the surrounding vicinity before and during the time the use opened; and arrests from these various locations.

Threats to public health, safety and welfare experienced in Antioch at the computer gaming and internet access businesses include criminal activity associated with robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism, property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these computer gaming and internet access businesses. Truancy and curfew violations have also been experienced in other communities.

Operation of additional computer gaming and internet access businesses will increase these negative impacts while the use is being studied. Further, additional computer gaming and internet access businesses could create conflicts among land uses or conflict with the City’s

long-term planning goals. Thus, it is recommended that the City Council also adopt a resolution initiating an Amendment to the Zoning Ordinance to formally commence the process for studying land use issues related to computer gaming and internet access businesses, including whether the uses should only be allowed in specific zoning districts, whether there should be limitations on the concentration of uses, and similar issues.

Proposed Regulations

The proposed regulations set forth in the Urgency Ordinance and Regular Ordinance to establish a licensing scheme for Computer Gaming and Internet Access Businesses and address operational issues like prohibiting minors in the business during school hours, hours of operation, establishment of an interior waiting area with seats to avoid loitering, staffing levels, surveillance system, alarm system, security guards, prohibition on private rooms and the like. Staff has already scheduled a meeting with the business operators for Monday, February 27, 2012 to address these regulations and related items. Staff will be reporting at the City Council meeting regarding the outcome of this meeting.

FISCAL IMPACT

The computer gaming and internet access businesses are causing negative impacts to the City's limited police resources, so it is prudent to address the negative impacts.

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance and Urgency Ordinance, introduction of the Regular Ordinance and adoption of the Resolution Initiating a Zoning Amendment. There will be staff time expended to meet with business representatives and to finalize a Regular Ordinance and prepare a Zoning Amendment, if appropriate.

OPTIONS

1. If the Council chose not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional computer gaming and internet access businesses could open without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations.
2. If the Council chose not to adopt the Urgency Ordinance by 4/5 vote, then the Regular Ordinance can be introduced on a majority vote. The Regular Ordinance would require a second reading for adoption and then be effective 30 days later.
3. The Council could choose not to initiate a Resolution for a Zoning Amendment, but staff recommends that the Council start the process for staff, and potentially Planning Commission, to at least study the issue to determine if Zoning Ordinance Amendments would be appropriate for this computer gaming and internet access business use.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any computer gaming and internet access business within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof

- B. Urgency Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses and making findings declaring the urgency thereof
- C. Regular Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses
- D. Resolution to initiate an amendment to the Zoning Ordinance to address Computer Gaming and Internet Access Businesses
- E. Business License Applications for Internet Room, T's Internet Café and Cot on the Web
- F. Comparison of Calls for Service prepared by the Police Department
- G. Log of Calls for Service at the Internet Room, T's Internet Café and Cot on the Web
- H. Sweepstakes Rules from Cot on the Web
- I. Municipal Code Section 9-5.3816
- J. Determination by Community Development Director regarding uses
- K. Appeals by the Internet Room, T's Internet Café and Cot on the Web

ATTACHMENT "A"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF FORTY-FIVE DAYS AND DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours,

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creating unknown impacts on the surrounding area and businesses, such as observed lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

G. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Computer Gaming and Internet Access Businesses that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by Computer Gaming and Internet Access Businesses. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of Computer Gaming and Internet Access Businesses so that such regulations are applied in a nondiscriminatory manner.

H. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

I. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Computer Gaming and Internet Access Businesses in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

J. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that

currently seeks to construct or operate a Computer Gaming and Internet Access Business.

K. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Computer Gaming and Internet Access Businesses. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. Restricted Activities.** For a period of forty-five (45) days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Computer Gaming and Internet Access Businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Computer Gaming and Internet Access Business. These prohibitions shall remain in effect during the forty-five (45) days following enactment of this Ordinance. The two existing Computer Gaming and Internet Access Businesses may continue to operate at their current locations: Internet Room at 2962 Delta Fair Boulevard and Cot on the Web at 2333 Buchanan Road.
- B. Definitions.** In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:
1. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from

users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

2. "Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for forty-five (45) days from the date of its adoption by not less than a four-fifth's vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to

the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 28th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

At
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ATTACHMENT "B"

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES AND MAKING FINDINGS DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

B. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking

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and other crimes, as well as on outstanding warrants. While some of these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council finds, determines and declares that the current threat to the public health, safety and welfare of the City and its citizens necessitates the immediate enactment of this Ordinance to help deter and prevent crimes and criminal activity from occurring at and around Computer Gaming and Internet Access Businesses.

G. The City Council further finds that this Ordinance constitutes a matter of Citywide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

"Chapter 11"

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café,

cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the Community Development Director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.120 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council, shall be paid to the City to defray the cost of the investigation and issuance

required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the City's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and all information contained therein conform in all respects to the provisions of this chapter;
3. The applicant has not knowingly made a material misrepresentation of fact in the application;

4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not tend to generate criminal activities, present unnecessary criminal opportunities, or tend to cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)()2, below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing

Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may

request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right

to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.
2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.
3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than eight (8) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the

premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:15. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name. Security personnel indicated in Section I below shall not be included in this minimum staffing number

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises

in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The security guard shall be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The security guard shall also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Booths. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle

in a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle. No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the Police Department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in chapter 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.40. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed to by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance is hereby declared an urgency measure pursuant to the terms of California Government Code section 36937 (b) and shall be effective immediately upon adoption by a four-fifths (4/5th) vote of the City Council.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 36937 (b) at a regular meeting of the City Council of the City of City of Antioch on the 28th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

ATTACHMENT "C"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

B. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

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these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council further finds that this Ordinance constitutes a matter of City-wide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

“Chapter 11”

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. “Computer Gaming and Internet Access Business” shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access

Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the community development director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.120 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council,

shall be paid to the City to defray the cost of the investigation and issuance required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the city's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;

2. The application and all information contained therein conform in all respects to the provisions of this chapter;

3. The applicant has not knowingly made a material misrepresentation of fact in the application;

4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not tend to generate criminal activities, present unnecessary criminal opportunities, or tend to cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)(2), below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and

conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could

have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.

2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.

3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than eight (8) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional

computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:15. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name. Security personnel indicated in Section below shall not be included in this minimum staffing number

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The security guard shall be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The security guard shall also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Booths. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle in a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle. No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the police department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a

misdemeanor and upon conviction thereof shall be punished as set forth in chapter 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.40. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

ATTACHMENT "D"

RESOLUTION NO. 2012/**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING A RESOLUTION OF INTENT TO INITIATE AN AMENDMENT TO CHAPTER 5 OF TITLE 9 OF THE ANTIOCH MUNICIPAL CODE TO ADDRESS COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

WHEREAS, Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users; "Computer Gaming and Internet Access Business" is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center, which is defined as an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition; and

WHEREAS, the City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses within the City; and

WHEREAS, the City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering; and

WHEREAS, there have been complaints about prostitution associated with these uses and it is known that other cities have experienced significant gang-related activities occurring at these Computer Gaming and Internet Access Businesses; and

WHEREAS, the City Council has determined that the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Antioch adopts this resolution of intention to initiate an amendment to Chapter 5 of Title 9 of the Antioch Municipal Code to address land use issues with Computer Gaming and Internet Access Businesses

DT 443

RESOLUTION NO. 2012/**
February 28, 2012
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I HEREBY CERTIFY that the foregoing resolution was duly passed and adopted by the City Council of the City of Antioch, California, at a regular meeting thereof held on the 28th day of February 2012, by the following vote:

AYES:

NOES:

ABSENT:

DENISE SKAGGS, City Clerk

DT
A44

ATTACHMENT "E"

CITY OF ANTIOCH BUSINESS LICENSE APPLICATION



DUE BY:
BUSINESS NO: 005779
CLASS CODE:

INSTRUCTIONS

Hold License Cert for Pick up
give to [redacted]

1. MAILING NAME & ADDRESS: IPG Inc. [redacted] Spring Hill, FL 34606		2. BUSINESS NAME: IPG Inc. dba Rapid Business Solutions	
		3. BUSINESS ADDRESS: 1892 A Street	
		4. BUSINESS CITY, ST, ZIP: Antioch, CA 94509	
5. PHONE: 914-498-3629	6a. CELL PHONE: 914-[redacted]	6b. FAX: 815-349-2829	6c. E-MAIL ADDRESS: internetpromotlongroup@gmail.com
7. BUSINESS DESCRIPTION: Offer consumers print, copy, fax services, and internet access			
8. FED ID#: [redacted]	9. STATE ID#: [redacted]	10. SELLER'S PERMIT#: [redacted]	11. HOME OCCUPATION#: [redacted]
12. OWNER#1 TYPE (Sole Proprietorship, Partnership, CORP, Trust): [redacted]		13. CERTIFICATION NO.: [redacted]	
15. OWNER#1 NAME: James Hayes		16. OWNER#2 NAME: Gino Ciaschetti	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT): [redacted]		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT): [redacted]	
19. OWNER#1 CITY, ST, ZIP: Dunedin, FLORIDA 34697		20. OWNER#2 CITY, ST, ZIP: Humble, TX 77396	
21. OWNER#1 HOME PHONE: 914-[redacted]		22. OWNER#2 HOME PHONE: 713-[redacted]	
23. OWNER#1 SSN: [redacted]	24. OWNER#1 DL: [redacted]	25. OWNER#2 SSN: [redacted]	26. OWNER#2 DL: [redacted]
27. CONTACT NAME: Jimmy Hayes or Gino Ciaschetti		28. CONTACT PHONE: 914-[redacted] or 713-[redacted]	
29. LICENSE TYPE (Office Use only): [redacted]		29A. INTERNET ADDRESS: internetpromotlongroup@gmail.com	
30A. GROSS RECEIPTS: [redacted]		30B. NUMBER OF CARD TABLES: [redacted]	
30C. NUMBER OF VEHICLES: [redacted]		31. LICENSE FEE: [redacted]	
32.: [redacted]		33. APPLICATION FEE: [redacted]	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33): [redacted]		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS): [redacted]	
OFFICE USE ONLY			
Effective Date: FEB 16 2011		Expir. Date: [redacted]	
Purchase Date: FEB 16 2011		Receipt No: 400542	
Planning Dept: [signature]		Bldg Dept: [signature]	
Zoning: C-2		Health Dept: [redacted]	

The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.

Sign Here

Signature:

Date: 2-14-2011

ET
A45

**CITY OF ANTIOCH
BUSINESS LICENSE RENEWAL**



DOE BY:
BUSINESS NO. 3001773
CLASS CO. E

INSTRUCTIONS

1. MAILING NAME & ADDRESS 125 internet cafe [REDACTED] Antioch CA 94531		2. BUSINESS NAME 125 internet cafe	
3. BUSINESS ADDRESS 1653 A St		4. BUSINESS CITY, ST, ZIP Antioch CA 94509	
5. PHONE 925 522 0801	6. EMERGENCY PHONE 925 [REDACTED]	8. FAX	6. E-MAIL ADDRESS Aeventoremember@comcast.net
7. BUSINESS DESCRIPTION Internet Cakes			
8. FED ID#	9. STATE ID#	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER#1 TYPE (Sole Proprietorship, Partnership, CORP, Trust)		18. CERTIFICATION NO	18. NUMBER OF EMPLOYEES
14. OWNER#1 NAME Patricia Simmonds		16. OWNER#2 NAME	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT)		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT)	
19. OWNER#1 CITY, ST, ZIP Antioch CA 94531		20. OWNER#2 CITY, ST, ZIP	
21. OWNER#1 HOME PHONE 925 [REDACTED]		22. OWNER#2 HOME PHONE	
23. OWNER#1 SSN	24. OWNER#1 DL	25. OWNER#2 SSN	26. OWNER#2 DL
27. CONTACT NAME Patricia Simmonds		28. CONTACT PHONE 925 [REDACTED]	
29. LICENSE TYPE (Office Use Only)	29A. INTERNET ADDRESS		
305. GROSS RECEIPTS \$ [REDACTED]	308. NUMBER OF CARD TABLES	309. NUMBER OF VEHICLES	
31. LICENSE FEE	32. RENTAL FEE	33. APPLICATION FEE	
34. TOTAL AMOUNT DUE (combines 31, 32 & 33) [REDACTED]		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date:	Expir. Date 4-30-11	Planning Dept. [Signature]	Bldg Dept. [Signature]
Purchase Date:	Receipt No. 412134	Zoning [Signature]	Health Dept.
The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.			
Sign Here [Signature] Signature		4-6-11 Date	

EZ
A46

**CITY OF ANTIOCH
BUSINESS LICENSE
DELINQUENCY NOTICE**



DUE BY: 05/30/2010
BUSINESS NO 3004773
CLASS CODE: 0 - 0

3rd Notice

INSTRUCTIONS

Please review the complete form and make corrections to this side. Complete lines 30, 31, 32, 33 and 34.
 Use schedule on reverse side to calculate fees.

Your license fee is delinquent, add a 10% penalty if paid after due date

1. MAILING NAME & ADDRESS T'S INTERNET CAFE [REDACTED] ANTIOCH, CA 94531-6357 [REDACTED]		2. BUSINESS NAME T'S INTERNET CAFE	
		3. BUSINESS ADDRESS 1836 A ST	
		4. BUSINESS CITY, ST, ZIP ANTIOCH, CA 94509-2602	
5. PHONE (925)522-0801	6a. EMERGENCY PHONE [REDACTED]	6b. FAX	6c. E-MAIL ADDRESS:
7. BUSINESS DESCRIPTION INTERNET SALES			
8. FED ID#	9. STATE ID#	10. SELLERS'S PERMIT #	11. HOME OCCUPATION #
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust) [REDACTED]		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER #1 NAME JALICIA COOPER-SIMMONS		16. OWNER #2 NAME	
17. OWNER #1 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [REDACTED]		18. OWNER #2 ADDRESS (NO POBOXES, STATE REQUIREMENT)	
19. OWNER #1 CITY, ST, ZIP Antioch CA 94531		20. OWNER #2 CITY, ST, ZIP	
21. OWNER #1 HOME PHONE Kevin Amadio		22. OWNER #2 HOME PHONE	
23. OWNER #1 SSN [REDACTED]	24. OWNER #1 DL [REDACTED]	25. OWNER #2 SSN	26. OWNER #2 DL
27. CONTACT NAME Jalicia Cooper-Simmons		28. CONTACT PHONE	
29. LICENSE TYPE (Office use only)	29A INTERNET ADDRESS		
30A. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES [REDACTED]	30C. NUMBER OF VEHICLES [REDACTED]	
31. LICENSE FEE [REDACTED]	32. PENALTY [REDACTED]	33. APPLICATION FEE [REDACTED]	
34. TOTAL AMOUNT DUE (combine lines 33, 34 & 35) [REDACTED]		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICIAL USE ONLY			
Effective Date: 05/01/2010	Expir. Date: 04/30/2011	Planning Dept:	Bldg Dept:
Purchase Date: JUN 23 2010	Receipt No: 348181	Zoning:	Health Dept:
The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.			
Sign Here	[Signature]		Date: 6-21-10

E3
A47

**CITY OF ANTIOCH
BUSINESS LICENSE APPLICATION**



DUE BY:
BUSINESS NO: 3006114
CLASS CODE:

INSTRUCTIONS

1. MAILING NAME & ADDRESS Coton the web 2333A Buchanan Antioch CA 94509		2. BUSINESS NAME Cot on the web	
3. BUSINESS ADDRESS 2333A Buchanan		4. BUSINESS CITY, ST, ZIP Antioch CA 94509	
5. PHONE 925 201 8332	6. ALT PHONE 925 [REDACTED]	8a. CELL PHONE 925 [REDACTED]	8b. FAX NUMBER
6c. EMAIL ADDRESS Aeventto remember@comcast.net		7. BUSINESS DESCRIPTION Fax Copy Print internet	
8. FED ID#	9. STATE ID#	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust)		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER#1 NAME Patricia Simmons LLC		18. OWNER#2 NAME	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT)		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT)	
19. OWNER#1 CITY, ST, ZIP Antioch CA 94531		20. OWNER#2 CITY, ST, ZIP	
21. OWNER#1 HOME PHONE 925 [REDACTED]		22. OWNER#2 HOME PHONE	
23. OWNER#1 SSN	24. OWNER#1 DL	25. OWNER#2 SSN	26. OWNER#2 DL
27. CONTACT NAME Patricia Simmons		28. CONTACT PHONE	
29. LICENSE TYPE (Office use only)	29A. INTERNET ADDRESS		
30A. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	30D. STICKER FEE (\$5/VEHICLE)
31. LICENSE FEE	32. PENALTY	33. APPLICATION FEE	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33)		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date:	Expt. Date:	Planning Dept. <i>MB</i>	Bldg Dept. <i>MB</i>
Purchase Date: SEP 29 2011	Receipt No: 450689	Zoning: <i>C3</i>	Health Dept.

The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is true, correct, and complete Application made pursuant to the Antioch Municipal Code.

Sign Here

Patricia Simmons
Signature

Date

*ET
A48*

ATTACHMENT "F"

ADDRESS	BUSINESS	Before Internet Café		Internet Café		%Change
		2/16/10 - 2/15/11	Totals	2/16/11 - 2/15/12		
Delta Fair BL		109		259		137.61%
2954	CA Check Cashing	52		124		138.46%
2958	Super Wine	44		77		75.00%
2962	Internet Room	0		16		nc
2970	Gold Palace	0		3		
2974	UPS Store	7		15		114.29%
2980	The OTS group	0		7		
2982	Geeta's Herbal Spa & Salon	3		6		100.00%
2996		1		0		
3000	Better Homes Realty	2		11		450.00%

Sample types of Calls	Before Internet Café		Internet Café		%Change
	2/16/10 - 2/15/11	Totals	2/16/11 - 2/15/12		
CA Check Cashing					
DISPO CLASS					
MSDS	7		21		200.00%
SUSC	7		16		128.57%
ATMC	7		19		171.43%
DRUN	0		3		
FINF	0		11		
LOIT	0		5		
Super Wine					
DISPO CLASS					
ATMC	9		14		55.56%
AUTT	0		2		
MSDS	7		21		200.00%
SUSC	3		12		300.00%

A49

ADDRESS	BUSINESS	Before Internet Café		Internet Café		After Internet Café		
		2/1/09-8/30/09	2009	2/1/10-8/30/10	2010	2/1/11-8/30/11	2011	2010-2011
	Totals	157	240					%Change
1800	Gas of America	29	59					-34.17%
1806	Juarez	7	8					-32.20%
1808		1	0					12.50%
1818	Grocery Outlet	49	50					nc
1826		0	1					-38.00%
1828		4	0					-100.00%
1836	Internet Café	0	27					nc
1840	Gold Star	1	9					-100.00%
1844		0	0					-77.78%
1848	Quick Check	2	5					nc
1852		3	1					-80.00%
1860	Lamothe Cleaners	3	9					0.00%
1864		1	1					-22.22%
1868	Delta Vaccum	1	5					-100.00%
1870	CCC Fed Credit Union	4	1					-40.00%
1872	Berrys	1	0					0.00%
1884	Thai Cuisine	0	2					-50.00%
1888	Cheers	0	4					0.00%
1890	Rock Bottom Records	6	9					-44.44%
1892	Minute Man Press	1	0					nc
1894	STARBUCKS	29	1					100.00%
1896	STARBUCKS	15	48					-10.42%

ADDRESS	BUSINESS	Before Internet Café		Internet Café	%Change	5.5 months	
		9/1/09-8/31/10	9/1/10-8/31/11			After Internet Café	09/01/11 - 2/15/12
	Totals	166	279		68.07%	72	
1611	Cruisers	61	72		18.03%	27	
1615	Fireside Thrift	10	7		-30.00%	6	
1623	Auto Zone	46	57		23.91%	22	
1625	The Beauty Source	9	6		-33.33%	0	
1631	Delta Barber	2	15		650.00%	3	
1633		0	1		nc	0	
1635	Russell's Cheesecake	0	3		nc	0	
1639		1	5		400.00%	2	
1641	World Fashion	21	4		-80.95%	0	
1645	Los Caporallas	2	4		100.00%	2	
1653	Internet Café	0	67		nc	4	
1657	Launderland	6	12		100.00%	5	
1661		0	2		nc	0	
1663	Dollar Store	8	24		200.00%	1	

ADDRESS	BUSINESS	Before Internet Café		Internet Café	
		8/20/10-12/31/10	8/20/11-12/31/11	2010	2011
	Totals	3	38		1166.67%
1900		1	4		300.00%
1908	Internet Café	0	34		nc
1912	APEX	2	0		-100.00%

ADDRESS	BUSINESS	Before Internet Café		Internet Café		%Change
		9/1/10 - 2/15/11	7	9/1/11 - 2/15/12	19	
BUCHANAN RD	Totals		7		19	171.43%
2327	OKAWA		2		2	0.00%
2329	Brooks & Books		0		1	
2331 #A	Serenity Salon & Spa		0		2	
2331 #B	Black Diamond Print		0		3	
2333 #A	COT on the Web		0		6	
2333 #B	Dominos Pizza		5		5	0.00%

A52-F4

ATTACHMENT "G"

CALLS FOR SERVICE
2962 DELTA FAIR BL
2/16/11 - 2/15/12

PRINTED:2/16/2012

EVENT#	RCV TIME	CLASS	DISPO	CASE#	SYNOPSIS
11068917	7/26/11 0:46	MSIN	MSIN		NEW INTERNET CAFE - NAME AND LOCATION NOTED FOR ADDITION TO CAD.
11097719	10/16/11 20:29	911U	911U		NVC/VOIP LINE
11109110	11/21/11 12:46	MEDPD	FIDA		FIRE ENRT FOR A MALE LAYING ON THE GROUND, BARELY CONSCIOUS
11109512	11/22/11 18:18	27SUB	WRNO	11010014	OV NEW CASE FOR WARRANT / [REDACTED]
11116985	12/17/11 0:40	FINF	FINF		MALE FELL OUTSIDE IS BLEEDING FROM SIDE OF HIS FACE
12001418	1/5/12 15:37		CANC		
12002550	1/9/12 2:00	96	WRNO	12000286	
12007174	1/24/12 2:06		VCOO		
12007425	1/24/12 22:00	415V	DISC		VERB WITH SUBJ IFO LOC
12008291	1/27/12 19:49	415UG	MSDS		GROUP IFO REFUSING TO LEAVE.. RP IS OTS SECURITY
12008631	1/28/12 22:11	10851	CIVI		2007 GRY DODGE MAGNUM [REDACTED] (LOC VIA DMV) RP SAID HE JUST MET SOME GUY AND HE ALLOWED HIM TO DRIVE HIS VEH TO THIS LOC SO RP COULD USE THE RESTROOM BEF THEY WENT OVER THE HILL TO "DO SOME BUSN" WHEN RP CAME OUT, UNK MALE THAT HE JUST MET WAS GONE WITH RPS VEH..... OCC SOMETIME DURING THE NIGHT 07 GRY DODGE MAGNUM LIC [REDACTED]
12008717	1/29/12 8:39	10851	CIVI		
12009234	1/30/12 22:56	1059	XPAT		
12009256	1/31/12 1:30	96	VCOO	12001054	
12011363	2/6/12 22:29	VCOO	VCOO		
12011680	2/8/12 0:51		ATMC		

TOTAL # EVENTS 16

TOTAL # CASES 3

{EVENT_MAIN.ADDR_ST} = "DELTA FAIR BL" and
{EVENT_MAIN.ADDR_NUM} = "2962" and
{EVENT_MAIN.RCV_TIME} in DateTime (2011, 02, 16, 00, 00, 00) to DateTime (2012, 02, 15, 23, 59, 59)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-2962DFB.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
Report for analysis purposes only - not for distribution - Law Enforcement Use Only

CALLS FOR SERVICE

1908 A ST

8/20/11 - 12/31/11

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11077745	8/20/11 22:26	415UG	MSDS		HMA LSW RED HAT RED SHIRT IFO THROWING THINGS AT THE BUSN AND YELLING THAT HE IS GOING TO COME BACK AND HURT THE EMPS... PER RP THE BUSN JUST MOVED AND THEY ARE NOW AT 1908 A ST .. [REDACTED] CAME IN AS 1653 A ST .. WAS ADV TO CONTACT PHONE COMPANY TO CORRECT .. PLS HAVE OFCR CONFIRM ADDRESS WHEN 97
11078136	8/22/11 7:58		ACCN	11006858	
11086692	9/15/11 0:54	417	SUSC		OCCRD AT 19TH/ D ST 5 AGO ... MALE POINTED THE GUN AT RP AND COCKED IT
11089401	9/22/11 22:25	PTOW	PTOW		91 CHEV VAN WHI CALIC #4 [REDACTED] LEFT ON PREMISE W/O PERMISSION
11090260	9/25/11 2:03	647F	DRUN	11007953	IN SMOKING AREA IN THE BACK OF THE BLDG.. 1051 WF BLN HAIR LSW BLK SHIRT AND BLU JEANS REFUSING TO LEAVE... ACTING VERY AGGRESSIVE
11091081	9/27/11 18:19	95	NARC	11008041	
11094268	10/6/11 22:42	96	AUTR	11008369	
11094358	10/7/11 6:42	SUSP	SUPP		RP SAID POLICE WERE LOOKING FOR A MALE RE A 10851 VEH...RP SAID THE MALE IS BACK, WM YELLOW HAT, THIN BUILD...MALE RAN OFF WB ON W 20TH....NFI
11096757	10/14/11 1:32	94	WRNO	11008608	TRO ON W 20TH
11096763	10/14/11 1:54	96	MSNF	11008609	SEP INC FOR THE 96
11097174	10/15/11 5:09	SUSP	SUPP		[REDACTED] IS IFO T'S INTERNET IN MULTIPLE COLOR ZIP UP HOODIE, BLK PANTS, WHI SHOES. SUBJ SHOULD HAVE PC ON A 288 CASE
11098790	10/20/11 1:41	FINF	FINF		F/A ENRT FOR CUSTOMER FEELING ILL, SWELLING IN LEGS AND HANDS, SUFFERS FROM LUPIS, CONSCIOUS AND BREATHING
11098824	10/20/11 4:58	FINF	FINF		MALE 24YS POSS ASTHMA ATTACK, AWAKE
11098851	10/20/11 8:11		WRNO	11008857	
11100420	10/24/11 21:56		WRNO	11009027	
11100726	10/25/11 23:27	94	FIED		
11101053	10/27/11 2:40	SUSV	SUSC		RP REC'D INFO THAT HIS GIRLF [REDACTED] 37 YO LEFT IN A 10851 WHI HOND ACC WITH 3 BM'S AND ARE PARKED AT THE ABOVE BUSN - NFI
11101413	10/28/11 3:18	415V	DISC		TO THE REAR OF BUSN, 6 MALES ARGUING. RP CLAIMS SOMEONE HAS A GUN BUT WHEN QUESTIONED FURTHER MALE SAID HE DOESN'T KNOW AND HUNG UP
11101754	10/28/11 23:06	FINF	FINF		ANOTHER CALL OF ODOR OF NATURAL GAS..CONFIRE 49
11103379	11/2/11 19:06	415UG	SUSC		BELLIGERNT FEMALE ON 19TH SIDE OF STORE.. ASKED TO LEAVE SO SHES UPSET WFA WRG BABY BLUE TANK TOP BEH THE ABOVE
11105196	11/8/11 20:34	94	SUSC		
11105283	11/9/11 8:36	94	WRNO	11009540	X21, [REDACTED] HAT DK PLAID SWTER
11106500	11/13/11 2:01	96	VCOO		

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11109312	11/22/11 5:01	415UG	SRVC		BMA 20'S REFUSING TO LEAVE AFTER FALLING ASLEEP AT THE STATION AND RUNNING OUT OF MONEY/ TIME ON HIS ACCOUNT.. STILL SITTING AT A COMPUTER WRG BLK HOODED SWEATSHIRT
11110006	11/24/11 12:21	96	AUTR	11010069	
11110550	11/26/11 11:12	96	SUSC		PLOT
11111845	11/30/11 21:06	1059	HOOO		RP SAYS PATRONS FROM INTERNET CAFE ARE SMOKING HS BY THE DUMPSTER IN THE BACK PLOT.. RIGHT NOW MALE AND 2 FEMALES
11111949	12/1/11 8:54	94	WRNO		
11112557	12/2/11 22:01	UNK	SUSC		IN BACK PARKING LOT RP GOT A CALL FROM A SEC GUARD WHO IS 97 IN BACK PARKING LOT... SAID HE HAD SOMEONE IN CUFFS THEN THE PHONE DROPPED AND LINE WENT DEAD. RP IS 49 BUT REQUESTING PD ALSO
11113240	12/5/11 2:26	96	SUSC		
11116649	12/16/11 4:32		XPAT		
11118279	12/21/11 12:18		SUSC		
11119257	12/24/11 14:16		MSNF		
11120678	12/29/11 18:35	415	DRUN	11011304	

TOTAL # EVENTS **34**

TOTAL # CASES **11**

{EVENT_MAIN.ADDR_ST} = "A ST" and
 {EVENT_MAIN.ADDR_NUM} = "1908" and
 {EVENT_MAIN.RCV_TIME} in DateTime (2011, 08, 20, 00, 00, 00) to DateTime (2011, 12, 31, 23, 59, 59)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-1908A.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
 Report for analysis purposes only - not for distribution - Law Enforcement Use Only

CALLS FOR SERVICE

1653 A ST

9/1/10 - 8/31/11

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
10089393	9/11/10 0:52	415F	ASLS		MALE AND FEMALE ON THE PHONE - BOTH SOUND INTOX OR ON H&S - SAYS PARKER, JOHN IS ON PAROLE AND GAVE THE FEMALE RP'S HUSB A LUMP ON HIS HEAD - AND NOW HE IS TRYING TO TAKE HIS VEH
10096584	9/30/10 22:35		NARC	10008553	
10096629	10/1/10 0:47	94	SUSC		
10103792	10/22/10 1:55		WRNO	10009178	
10110505	11/12/10 0:15	94	WRNO	10009842	
10111087	11/13/10 20:29	94	SUSC		
10112776	11/18/10 21:15	211A	ROBB	10010053	MALE W/BLK MASK, BLK HOODED SWEATSHIRT, BLK JEANS, JUST ROBBED MONEY FROM REGISTER, WAS ARMED W/SAW OFF SHOT GUN SHOT IT AT A CO WORKER, NO ONE HIT
10115832	11/28/10 19:36	488	THOF		IPOD STOLEN AND RP WANTS APD TO CK THEIR CAMERAS FOR THE RESP....OK TO SEND OFC PER C22
10116206	11/29/10 23:22	CIVI	CIVI		RP FOUND HER BLU PONT TRANSPORT VAN AT THE ABOVE LOCATION - RP SAYS HER DAUGHTER TOOK IT AND SHE IS STILL THERE - NOW A MALE IS THERE TRYING TO TAKE VEH FROM THE RP - VEH HAS DIABLO DEALER PAPER PLATES VIN: [REDACTED]
10116816	12/1/10 20:52	94	SUSC		
10116863	12/1/10 23:25	95	VCOO		
10118970	12/8/10 23:48	PROM	PCOO		3 TO 4 SHOTS HEARD, NOTHING SEEN - SECURITY HAS INFO
10125571	12/30/10 19:54	96	VCOO		
11002393	1/8/11 21:01	488	THOF		THEFT OF CELL PH BY UNK RESP E # GIVEN
11008727	1/28/11 20:56	94	MSDS		ON 3
11008803	1/29/11 0:39	95	NARC	11000809	BLK HOND NP
11010169	2/2/11 11:26	HOOO	HOOO		[REDACTED] WORKS AT LOC AND HIS GIRLFRIEND [REDACTED] ARE BUYING AND SELLING DRUGS AT LOC....SHE SAYS HE SOMETIMES "CHECKS" HIS DRUGS.....UNK IF THEY ARE THERE NOW OR NOT...RP SAYS [REDACTED] HAS TRACK MARKS ALL OVER HIS ARMS BUT WEARS LONG SLEEVED SHIRTS TO COVER THEM UP
11010329	2/2/11 21:45	94	SUSC		
11010370	2/3/11 1:06	94	VCOO		
11013060	2/10/11 23:00	96	VCOO		
11015349	2/18/11 0:51	95	VCOO		
11015870	2/19/11 20:48		SUPP		
11015889	2/19/11 22:23	95	VCOO		

A5b 64

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11016438	2/21/11 20:07	415F	MSDS		VERY LOUD VERBAL 2 HFS #1 WEARING PINK SHIRT GRY SWEATPANTS...
11016818	2/23/11 0:47	1059	XPAT		
11017471	2/25/11 1:47	95	NARC	11001604	
11020498	3/5/11 23:26	96	SUSC		
11023162	3/13/11 23:21	95	VCOO		
11024113	3/16/11 22:42	94	MSDS		
11025168	3/20/11 3:18	215	CARJ	11002337	10 AGO OCC NEAR AT 20TH/C RP JUST WALKED HERE TO CALL JAMIE UNK LAST NAME AND HER FRIEND HIT RP WITH A PIPE AND BBQ AN THEN TOOK RPS SIL FORD F350 KING CAB, UNK LIC REGISTERD TO [REDACTED] (RP NOT SURE OF SPELLING) MEDICAL REFUSED ALSO TOOK CELL [REDACTED]
11026661	3/25/11 1:59	FIRE	FDIC		VEH ON FIRE CUSTOMER INSIDE THE BUSN - NO ONE IN THE VEH / UNK WHAT HAPPENED.. XFERRED TO FIRE - ENR
11029305	4/1/11 23:32	94	SUPP		
11029757	4/3/11 2:34	95	VCOO		
11029765	4/3/11 3:00	95	VCOO		
11034055	4/16/11 2:20	95	VCOO		
11036122	4/21/11 21:46	96	SRVC		
11036157	4/21/11 23:31	96	PARK		
11036883	4/24/11 0:54	415	MALM		2 SUBJS CHASING EACH OTHER IN THE PARKING LOT, 1 IN A BLK NISS AND 1 IN A GREEN HONDA, PR ADV THE GREEN HONDA HIT A WHI CADI
11038848	4/29/11 23:58		PARK		
11038890	4/30/11 1:59	94	SUSC		
11041791	5/8/11 1:28		WRAN	11003794	
11043128	5/12/11 1:11	95	VCOO		
11043224	5/12/11 10:02	94	WRNO	11003932	
11043239	5/12/11 10:53	94	SUSC		
11043876	5/13/11 23:23	95	VCOO		
11044017	5/14/11 10:32	94	SUSC		
11045926	5/20/11 3:02	1059	NARC	11004182	
11048426	5/27/11 14:11	94	SUSC		
11049360	5/30/11 9:38	SUSV	SUSC		MALE DRIVING THRU THE PL SEVERAL TIMES IN A BLK DURANGO...LS PARKED TRO OF RITE AIDE DRIVER WM C4
11050187	6/1/11 22:40	96	PARK		

<u>EVENT#</u>	<u>RCV_TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11050220	6/2/11 0:36	PARK	PARK		
11050899	6/3/11 20:30	PARK	PARK		
11062140	7/5/11 22:53	27SUB	SUSC		RECD INFO THAT PAROLEE AT LARGE IS AT THIS LOC...RESP IS [REDACTED] JUNK DOB.....RP HAS NFI. SUBJ IS NOT HIS PAROLEE AND HE HAS NFI.....NO BAIL CDC IN WPS W/4
11063231	7/9/11 0:40	94	SUSC		
11063642	7/10/11 2:41	314	EXPO		WF BLN HAIR ABOUT 24YO 504-505... STRIPPED DOWN NAKED IFO .. WAS WEARING A BLU MINI SKIRT.... FEM ARRIVED WITH A BM BLK HAT WHI SHIRT BLU SHORTS SAGGING BELOW HIS BUTTOCKS.. BOTH SUBJS HEAVILY INTOXICATED
11064952	7/14/11 1:57	10851R	AUTR	11005755	C5 ON UNOCCUPIED 10851
11065264	7/14/11 22:07	94	MSDS		94 ON 4
11065295	7/14/11 23:57	96	SUSC		
11067206	7/21/11 0:25	415	CARJ	11005954	SUBJ TRIED TO REPORT A GUY NAMED [REDACTED] JUST TOOK HIS VEH, BLK 2000 TOYT CAMRY LICTHEN 415 BROKE OUT OVER THE PHONE
11070675	7/31/11 10:26	95	SUPP		
11070676	7/31/11 10:32		AUTT	11006251	
11070678	7/31/11 10:38		AUTR		
11071782	8/3/11 20:09	HSOO	HSOO		ABOUT 6 SUBJS HANGING OUT IFO THE LOC, APPEAR TO BE USING HS
11071927	8/4/11 10:10	96	SUSC		
11072239	8/5/11 3:08	96	VCOO		
11073120	8/7/11 13:25	94	WRNO	11006430	WTH 1
11074887	8/12/11 18:11	94	SUSC		

TOTAL # EVENTS 67

TOTAL # CASES 14

{EVENT_MAIN.ADDR_NUM} = "1653" and
 {EVENT_MAIN.ADDR_ST} = "A ST" and
 {EVENT_MAIN.RCV_TIME} in DateTime (2010, 09, 01, 00, 00, 00) to DateTime (2011, 08, 31, 00, 00, 00)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-1653A.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
 Report for analysis purposes only - not for distribution - Law Enforcement Use Only


CALLS FOR SERVICE

1836 A ST

2/1/10 - 8/30/10

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
10016711	2/19/10 15:10	5150	AIDX		PURSE MISSING FROM THE BINGO HALL NEAR THIS LOC RP HAS NO MAILING ADDRESS OR HOME SAYS SHE IS HOMELESS AND OUT OF OR ALMOST OUT OF HER MEDS FOR BIPOLAR, SUICIDAL TENDENCIES... PURSE WAS BRO MED SIZE WITH RPS TEETH, MEDS AND CADBURY EGGS INSIDE
10019077	2/26/10 19:47	94	SUSC		W/2
10021601	3/6/10 0:29	94	WRNO	10002054	
10030328	3/31/10 9:46	CAT	CATC		
10032897	4/8/10 0:37	94	WRNO	10003164	INT CAFE
10033045	4/8/10 13:49	415L	MSDS		WM TRANSIENT IFO THE BUSN ASKING FOR MONEY, NOT BOTHERING ANYONE BUT RP WOULD LIKE HIM MOVED ALONG WEARING OLD GRN ARMY JKT
10034163	4/11/10 17:32	SUSP	SUSC		BMA APPROX 20 LSW BEANIE WHI/BLU/RED JACKET KEEPS COMING INTO BUSN ACTING SUSP LS WALKING TWDS A ST
10034675	4/13/10 11:49	415V	SUSC		UNCOOPERATIVE RP SAYING SOMEONE IS TRYING TO FIGHT HIM OVER MONEY HE OWES RESP IS WMA 18-19 YO LONG BLN HAIR BLK SHIRT BLU JEANS ARRIVED ON FOOT
10045265	5/12/10 23:37	96	SUSC		
10046344	5/15/10 18:29	488	THOF		RPS CELL PHONE STOLEN FROM A MALE ...RP THINKS HES ON THE VIDEO
10047837	5/19/10 23:03	96	SUSC		
10048541	5/21/10 23:31	10851R	AUTR	10004654	UNOCC'D 10851
10050612	5/27/10 20:36	95	VCOO		GRAY CELICA NO PLATES
10050627	5/27/10 21:26	95	VCOO		
10053703	6/4/10 20:35	95	AUTS	10005105	
10056437	6/11/10 23:50	SUPP	SUPP		RP ADV SUSP IN JOES LIQUORS INCIDENT YESTERDAY IS A BM, THIN WEARING GLASSES, 99 CENT ONLY BAGS IN HIS HANDS..SUBJ WALKING TWDS INTERNET CAFE...OFC KIDD WAS LOOKING FOR THIS SUBJ PER THE RP
10059069	6/19/10 1:21	94	ASLS		
10061397	6/24/10 23:04		NARC	10005669	
10061417	6/25/10 0:35	94	ATMC		
10064092	7/2/10 1:14	96	SUSC		
10066477	7/7/10 22:05	95	VCOO		
10071603	7/22/10 22:52	94	HOO	10006488	
10071827	7/23/10 16:24	415D	ASLS	10006501	INSIDE BUSINESS MALE AND FEMALE YELLING AT EACH OTHER..NOW PHYSICAL..CAN HEAR THEM YELLING....BMA 27 YRS...506 180 LBS LONG SLEEVE GRY SHIRT.....BFA 30 YRS...BLK SHIRT...NO WEAPONS SEEN...NO INJURIES

<u>EVENT#</u>	<u>RCV_TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
10072022	7/24/10 1:21	96	VCOO		
10073649	7/28/10 22:01	96	SUSC		
10073978	7/29/10 21:25	94	PCOO		
10083767	8/26/10 22:12	94	VCOO		

TOTAL # EVENTS 27

TOTAL # CASES 7

{EVENT_MAIN.RCV_TIME} in DateTime (2010, 02, 01, 00, 00, 00) to DateTime (2010, 08, 30, 00, 00, 00) and
 {EVENT_MAIN.ADDR_NUM} = "1836" and
 {EVENT_MAIN.ADDR_ST} = "A ST"

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-1836A.rpt

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CALLS FOR SERVICE
2333 BUCHANAN RD #A
9/1/11 - 2/15/12

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV_TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11085380	9/11/11 10:52	33A	ALAF		BUSN CAUGHT ON THE WEB POA FRONT DOOR/ FRONT MOTION 7787004
12003100	1/10/12 20:36	95	NARC	12000344	C4
12005356	1/18/12 1:58	PARK	VCOO		
12008958	1/30/12 4:44	96	LOIT		
12009252	1/31/12 1:18	96	SUSC		
12011679	2/8/12 0:35		VCOO		

TOTAL # EVENTS 6

TOTAL # CASES 1

{EVENT_MAIN.ADDR_NUM} = "2333" and
{EVENT_MAIN.RCV_TIME} in DateTime (2011, 09, 01, 00, 00, 00) to DateTime (2012, 02, 15, 23, 59, 59) and
{EVENT_MAIN.ADDR_APT} = "A" and
{EVENT_MAIN.ADDR_ST} = "BUCHANAN RD"

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-2333-A-Buchanan.rpt

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ATTACHMENT "H"

SWEETSTAKES GAMES RULES:

1. Game Rules are pursuant to California Business and Professions Code Sections, 17539.5, 17539.15 (amended September 30, 2008), and 17539.55.
2. Lucky Symbols™ Sweepstakes game chances **CAN NOT BE PURCHASED OR SOLD.**
3. **THERE IS NO PURCHASE OR PAYMENT NECESSARY TO PLAY LUCKY SYMBOLS™ SWEETSTAKES.**
4. Any person over the age of eighteen (18) may request a free sweepstakes game chance. No solicitation is required or implied with this free offer with regard to free sweepstakes chances awarded in connection to the purchase of Internet Time Services. All game chances have the same "game chance" of winning a sweepstakes prize. Any person upon accepting a free sweepstakes game chance acknowledges and accepts the terms and conditions set forth in these Game Rules.
5. One free sweepstakes game chance per customer per business day is permitted inclusive of all participating Lucky Symbols™ Sweepstakes Game locations throughout the State of California. Legal name, current address, date of birth and phone number must be provided in writing to receive a free sweepstakes game chance. All personal information gathered will be kept confidential and will not be sold or used in any manner or condition other than to positively identify and keep record of all persons granted a free sweepstakes game chance.
6. All sweepstakes game prizes are redeemed and awarded on the same business. No exceptions considered or accepted. All unclaimed sweepstakes game prizes are considered forfeited by the player.
7. Sweepstakes Game Chances have no cash value and therefore cannot be sold or redeemed for cash or anything of value.
8. Sweepstakes Game Chances are obtained solely by the purchase of Internet Time Access to a live Browser web interlink site (s) on demand by the user. Internet Time Access is the only recognized tangible commodity sold and/or purchased.
9. Sweepstakes Game Chances are offered for the purpose of promoting increased sales of Internet Time Services Access.
10. The following classes of persons are not eligible to participate in the free sweepstakes game chances: present or former employees or agents of any Internet Time Access location engaged in the sale of Internet Time Services and offers Sweepstakes Game Chances to promote increased sales of Internet Time Services Access to the general public.
11. All played and winning and redeemed Sweepstakes Game Chance receipts remain to be the property of the game operator.
12. Sweepstakes Game Chance participants agree to release and hold harmless the game sponsor, its officers, members, employees, attorneys, affiliated organizations and agents, as well as the owners of any participating locations, and said owners' directors, officers, members, employees, attorneys, affiliated organizations and agents, from any and all claims, demands, liabilities, costs, expenses, penalties, damages (including incidental, consequential and punitive damages), injuries, death, losses of any kind, including, without limitation, reasonable attorney's fees, arising from or in connection with or that may result from their acceptance or use of a prize, their participation in the Sweepstakes Game Chances. Game participants agree not to dispute or contest the Sweepstakes Game Chances winning or losing outcomes. Participants accept responsibility for all federal, state and local taxes on any Sweepstakes Game prizes awarded to the winners.

GAME PRIZES AND ODDS OF WINNING:

1. The number of prizes awarded and the total value of all prize awarded to win depends on the total number of Sweepstakes Game Chances played. The more game chances played increases the player's odds of winning a prize. Some game prize's ratio of win will make some prizes a more frequent winning prize. All prizes are eligible to be a winning prize for any player. All prizes are awarded as a cash prize. Face value of each game prize are represented by the actual cash prize award amount assigned to that specific and separate game prize award. Example: A \$20.00 game prize can be redeemed for a twenty dollar (\$20.00) cash prize.
All game prizes must be redeemed on the same business day and must be redeemed at the same Sweepstakes Game operator location. No exceptions considered or accepted.

ABZHH

ATTACHMENT "I"

9-5.3816 MECHANICAL OR ELECTRONIC GAMES.

These are subject to the following regulations:

(A) Any proprietor owning or operating a business lawfully in existence on August 26, 1982, shall be deemed to have been issued a permit pursuant to this article, provided such proprietor, within 30 calendar days after said date, submits on a form prescribed by the City Manager a record of information on such existing business. No filing fee or permit fee shall be payable therefor. The provisions of this section shall apply to subsequent proprietors at the same location.

(B) Machines may be replaced without a change in such permit. In the event machines are added after August 26, 1982, to total more than three machines for the establishment, a use permit will be required under the provisions of this article.

(C) It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit. The permit shall be conspicuously posted at the location of the games in the premises and shall not be removed during the period for which the license was issued. In cases where the mechanical or electronic games occupy more than 50% of the premises' customer floor space, or account for 50% or more of the premises' gross revenue, or where 10 or more such games are proposed, the use permit shall be referred to the Council for final approval pursuant to the provisions of this article. The use permit shall state the number of games, and the use of additional games shall require a new or modified use permit.

(D) No operator shall install or allow any mechanical or electronic game to be installed in any proprietor's place of business which game requires a permit as provided for in this article unless such proprietor has been issued such permit.

(E) Applicants for use permits shall undergo a background check by the Police Department. The permit may be denied if the applicant has been convicted of a crime which has relevance to the operation of the premises.

(F) No such use permit shall apply to any premises other than the location originally approved. Upon change of ownership, the new owner shall receive clearance from the Police Department; however, no other use permit proceedings shall be required for such transfer if the new owner received police clearance.

(G) The permit provided for in this article may be revoked or suspended as provided for in this chapter. In addition, the violation of any provision of this article shall be grounds for revocation or suspension.

(H) The following shall be considered as standard use permit conditions which can be used as the basis for use permit revocation or suspension:

- (1) There shall be adult supervision during the hours of operation.

(2) There shall be no minors consuming alcohol on the premises.

(3) There shall be no use, sale, exchange, or presence of drugs or other illegal substances on the premises.

(4) Patrons shall not become a nuisance to the properties within the immediate vicinity.

(I) It shall be unlawful for any proprietor of a mechanical or electronic game to cause, permit, or allow such game to be located, operated, or main-tained to be operated within 1,000 feet of the nearest street entrance to or exit from any public playground or public or private school of elementary or high school grades, such distance to be measured from such entrance or exit in the most direct line or route on, along, or across such street or streets adjacent to such public playground or public or private school of elementary or high school grade. The restrictions established by this section shall not apply to businesses lawfully in existence and operating on August 26, 1982.

(J) It shall be unlawful for any proprietor or employee to allow any minor under 18 years of age to play or use any such games during the academic year for public schools in the city, except during school holidays and on Saturdays and Sundays, and between the hours of 7:00 a.m. and 10:00 p.m. on all days preceding school days and between 7:00 a.m. and 11:00 p.m. on all other days.

(K) This article shall not apply to the following:

(1) Any operation involving three or fewer mechanical or electronic games, except where such games provide the main or primary source of income for the proprietor thereof;

(2) The operation or maintenance of such games within recreational enterprises, such as bowling alleys or poolrooms, where a use permit has already been obtained; and

(3) Premises or operations licensed by the Department of Alcoholic Beverage Control of the State for on-sale consumption of alcoholic beverages, excepting therefrom any such premises or operations which lawfully permit minors, such as bona fide public eating places.

ATTACHMENT "J"



January 5, 2012

Will Beaubien
Beaubien Investment Group
One Market Street
Spear Tower, Suite 3600
San Francisco, CA 94105

Patricia Cooper-Simmons
T's Internet Café
3127 Sunflower Drive
Antioch, CA 94531

Re: **T's Internet Café**
522 West 2nd Street, Antioch (APN 066-051-006)

Dear Mr. Beaubien and Ms. Cooper-Simmons:

The City of Antioch understands that the business operating as T's Internet Café falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Subsection (I), pasted below, specifically regulates locations of said businesses. The building at 522 West 2nd Street, Antioch (APN 066-051-006) is located with 1,000 feet of a public school. Therefore, a Use Permit for Mechanical and Electronic gaming cannot be accepted and the use cannot be approved.

- (I) It shall be unlawful for any proprietor of a mechanical or electronic game to cause, permit, or allow such game to be located, operated, or maintained to be operated within 1,000 feet of the nearest street entrance to or exit from any public playground or public or private school of elementary or high school grades, such distance to be measured from such entrance or exit in the most direct line or route on, along, or across such street or streets adjacent to such public playground or public or private school of elementary or high school grade. The restrictions established by this section shall not apply to businesses lawfully in existence and operating on August 26, 1982.

Staff has observed contractors working at the above address without a Building Permit. A Stop Work Notice was given today. A Building Permit will not be issued for T's Internet Café as the use is not permitted.

I can be reached at 779.7038 or twehrmeister@ci.antioch.ca.us should you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Tina Wehrmeister".

Tina Wehrmeister
Community Development Director

Community Development Department

P.O. Box 5007 • 200 H Street • Antioch, CA 94531-5007 • Tel: 925-779-7035 • Fax: 925-779-7034 • www.ci.antioch.ca.us

JT
AV5



**NOTICE OF VIOLATION OF THE ANTIOCH MUNICIPAL CODE
MECHANICAL OR ELECTRONIC GAMES**

January 10, 2012

Patricia Simons
Cot on the Web
2333 Buchanan Road, #A
Antioch, CA 94509

Patricia Simons
3127 Sunflower Drive
Antioch, CA 94531

Parcel No. 076-432-014
Address: 2333 Buchanan Road, #A, Antioch, CA

The City of Antioch understands that the business operating as Cot on the Web falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Section 9-5.3816(C) states:

It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit.

The City does not have record of your business obtaining a Use Permit. You are required to submit a Use Permit application by January 30, 2012. An application is attached for your convenience.

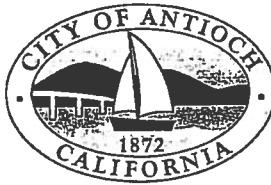
The City is providing this one-time opportunity to voluntarily abate the above violation(s) and public nuisance without the need for the City to issue Administrative Citations, which carry fines that range from \$100 to \$1,000 for every day the violation(s) are permitted to remain and/or take other action to compel your compliance.

Thank you in advance for your cooperation in abating these violation(s). If you have any questions, you may contact me at (925) 779-7038 or twehrmeister@ci.antioch.ca.us.

Sincerely,

Tina Wehrmeister
Community Development Director

cc: June Patricia Smoot
Jeffery & Carolyn McClung



**NOTICE OF VIOLATION OF THE ANTIOCH MUNICIPAL CODE
MECHANICAL OR ELECTRONIC GAMES**

James Hayes
Rapid Business Solutions
2962 Delta Fair Blvd
Antioch, CA 94509

January 18, 2012

Parcel No. 076-440-031
Address: 2962 Delta Fair Blvd., Antioch, CA

The City of Antioch understands that the business operating as Rapid Business Solutions falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Section 9-5.3816(C) states:

It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit.

The City does not have record of your business obtaining a Use Permit. You are required to submit a Use Permit application by January 30, 2012. An application is attached for your convenience.

The City is providing this one-time opportunity to voluntarily abate the above violation(s) and public nuisance without the need for the City to issue Administrative Citations, which carry fines that range from \$100 to \$1,000 for every day the violation(s) are permitted to remain and/or take other action to compel your compliance.

Thank you in advance for your cooperation in abating these violation(s). If you have any questions, you may contact me at (925) 779-7038 or twehrmeister@ci.antioch.ca.us.

Sincerely,

Tina Wehrmeister
Community Development Director

cc: Chiu Family LLC

ATTACHMENT "K"



GagenMcCoy

William E. Gagen, Jr.
Gregory L. McCoy
Patrick J. McMahon
Charles A. Koss
Michael J. Markowitz
Richard C. Raines
Barbara Duval Jewell
Robert M. Fanucci
Allan C. Moore
Stephen T. Buehl
Amanda Bevins
Martin Lysons
Lauren E. Dodge
Sarah S. Nix
Ross Pytlik
Brian P. Mulry
Amanda Beck

Of Counsel
Linn K. Coombs

The Law Offices of
**Gagen, McCoy, McMahon, Koss
Markowitz & Raines**
A Professional Corporation

Danville Office
279 Front Street
P.O. Box 218
Danville, California 94526-0218
Telephone: (925) 837-0585
Fax: (925) 838-5985

Napa Valley Office
The Offices At Southbridge
1030 Main Street, Suite 212
St. Helena, California 94574
Telephone: (707) 963-0909
Fax: (707) 963-5527

Please Reply To:
Danville

February 6, 2012



By Email and Hand-Delivery
February 6, 2012
Board of Administrative Appeals
City of Antioch
Chair Frederick Rouse
c/o City Clerk
200 "H" Street
Antioch, CA 94509

Re: City Notice of Violation dated January 18, 2012
Rapid Business Solutions/2962 Delta Fair Boulevard, Antioch (APN 076-440-031)
Administrative Appeal

Dear Chair Rouse, Board members, and City Clerk:

Our office represents James Hayes, owner and operator of Rapid Business Solutions, located at 2962 Delta Fair Boulevard in Antioch (the Internet café), with regard to the City of Antioch's Notice of Violation dated January 18, 2012.

The City's Notice of Violation states that the business (Internet café) operating as Rapid Business Solutions falls within the City's Municipal Code at §9-5.3816, relating to "Mechanical and Electronic Games." The Notice of Violation states that the Internet café is therefore required to submit a Use Permit application by January 30, 2012.¹

¹ By email exchange, City staff extended the response date to February 6, 2012. Our office further held an informal meeting with Staff on February 2, 2012, and confirmed our Appeal or other response would be filed on/before February 6, 2012.

KJ
A68

Please consider this letter a Notice of Appeal of the administrative decision to take the proposed action. (We are filing this Notice of Appeal in anticipation of the City moving forward to take action as outlined in the City's Notice of Violation. If the City does not take such action, and/or if the City will work with us as outlined below, we will withdraw the Notice of Appeal.)

Mr. Hayes wants to work with the City and to continue to be a good neighbor to all adjacent businesses and the greater Antioch community. We understand and appreciate the City's desire to ensure that all businesses comply with the City's ordinances and do not create a nuisance, an increase in vandalism, or any similar land use impacts. We want to cooperate with the City on any such issue as it relates to the Internet café, including increased security, etc., and we will commit to working with the City.

Having stated the above, we hereby appeal the City's potential action (to require a Use Permit or to issue Administrative Citations), based on several grounds, including the following.

1. Applicability of §9-5.3816

The City's Municipal Code at §9-5.3816 is entitled "Mechanical or Electronic Games." Section (C) states as follows:

It shall be unlawful for any proprietor to install, operate or maintain any mechanical or electronic game without first having obtained a use permit . .

The City's Municipal Code defines "Mechanical or Electronic Games" in its Definitions section, at §9-5.203, as follows:

Any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, or any other article or device, or by paying therefore either in advance of or after use, involving in its use either skill or chance, including, but not limited to, a tape machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game, or any other similar machine or device.

We note that §9-5.3816 as referenced above relates back to businesses operating as of August 26, 1982. At that time, there was no such thing as "Internet cafes" as they are known today. As set forth below, Internet cafes, Cybercafes and related businesses provide access to the Internet, which is recognized as an activity afforded special protection under the First Amendment.

KZ
A69

February 6, 2012

Page 3

We do not believe the City's §9-5.3816 was intended to apply to the Internet, and we do not believe the business activities and facilities (including the computers and related facilities) of Mr. Hayes' Internet café fall within the definition of §9-5.203.

2. City Requirement for a Use Permit

The City's Notice of Violation indicates it intends to require that the subject ongoing business (the Internet café) obtain a Use Permit. The City's Municipal Code at §9-5.2703 (B)(1) requires certain findings for the issuance of a Use Permit, including:

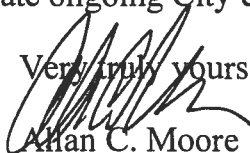
"That the granting of such [Use Permit] will not be detrimental to the public health or welfare ..."

California Appellate cases and authorities state that the discretion of local agencies to require an applicant to obtain a Use Permit is severely limited when First Amendment rights are implicated. This is particularly the case for businesses which provide access to the Internet.

In *Vo v. City of Garden Grove* (115 Cal. App. 4th 425 (2004)), the City of Garden Grove adopted an emergency interim ordinance and a moratorium against new CyberCafes. The ordinance required existing Cybercafes to apply for a Use Permit by a certain date. *The Court held such Use Permit requirement to be invalid.* In its decision, the Court noted that the City's Use Permit ordinance gave the City broad discretion to deny the Use Permit if the use impacts the "public health, safety or general welfare" (*the same criteria in the City of Antioch's ordinance*). The Court found that Garden Grove's Use Permit process gave the City too much discretion to restrict First Amendment rights.

For these and related reasons, we respectfully believe that the City should not impose a Use Permit requirement on Mr. Hayes' existing Internet cafe business. However, as noted above, we do want to work with the City with regard to reasonable steps we can agree on to address legitimate ongoing City concerns.

Very truly yours,



Allan C. Moore

cc: Tina Wehrmeister
Director of Community Development Department

Lynn Tracy Nerland
City Attorney

James Hayes

GAGEN, McCOY, McMAHON, KOSS, MARKOWITZ & RAINES
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
279 FRONT STREET
DANVILLE, CA 94526
PHONE (925) 837-0585

103546



90-2267-1211

2/6/2012

PAY Fifty & No/100 Dollars

50.00

GAGEN, McCOY, McMAHON, KOSS, MARKOWITZ & RAINES
TWO SIGNATURES REQUIRED OVER \$1,000.00 DOLLARS

AUTHORIZED SIGNATURE

TO THE
ORDER
OF

City of Antioch

⑈ 103546 ⑈ ⑆ 121122676 ⑆ 153453447705 ⑈

A71-K4

1/23/11

I am appealing letter sent to Cot On The Web 2223a Buchanan rd Antioch CA 94509. It states that I need to get an arcade permit for the sale of internet time I am not a arcade in any way and do not sell anything but internet time.

Any questions

Patricia Simmons

925-209-8332

3127 Sunflower
Antioch CA 94531

Aeventtoremember@Comcast.net

CITY OF ANTIOCH
925-779-7055

RECH: 00477860 1/24/2012 12:13 PM
OPER: FV3 TERM: 003
REF#:

TRAN: 132.0000 Other Sv Chg-Copies
APPEAL FOR COT ON THE WEB
Other Service Chrgs 50.00CR

TENDERED: 50.00 CASH
APPLIED: 50.00-

CHANGE: 0.00

 ORIGINAL

RECEIVED

JAN 24 2012

CITY OF ANTIOCH
CITY CLERK

A72 K5

1-12-12

To: The city of Antioch

I Am Appealing letter received 1-5-12
by Tina Wehmeister stating my sales of
Internet Time/Phone Cards ARE Electronic
Games. T's internet cafe Does Not Sell
Any kind of Game At All. I Do NOT
feel A Electronic Game Permit IS needed
for T's internet cafe

Thank
you

Patricia Simmons

T's internet cafe

925-209-8332

RECEIVED

JAN 12 2012

CITY OF ANTIOCH
CITY CLERK

CITY OF ANTIOCH
925-779-7055

RECH: 00475867 1/12/2012 10:29 AM
OPER: FV3 TERM: 003
REF#:

TRAN: 132.0000 Other Sv Chg-Copies
PATRICIA SIMMONS
Other Service Chrg 50.00CR

TENDERED: 60.00 CASH
APPLIED: 50.00-

CHANGE: 10.00

A73K6

ATTACHMENT "B"

ORDINANCE NO. 2054-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

1. **B.** The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows and as further described in attachments to the staff report: On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking

and other crimes, as well as on outstanding warrants. While some of these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service at that location and at neighboring businesses have increased from 109 to 259 over a twelve month period since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council further finds that this Ordinance constitutes a matter of City-wide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

“Chapter 11

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. “Computer Gaming and Internet Access Business” shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access

Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the community development director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.20 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council,

shall be paid to the City to defray the cost of the investigation and issuance required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the city's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and all information contained therein conform in all respects to the provisions of this chapter;

3. The applicant has not knowingly made a material misrepresentation of fact in the application;

4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not generate criminal activities, present unnecessary criminal opportunities, or cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)(2), below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and

conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could

have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in subsection B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.

2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.

3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than five (5) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional

computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:40. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's name. Security personnel indicated in Section below shall not be included in this minimum staffing number.

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The Chief of Police may require security guards to be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The Chief of Police may require security guards to also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Rooms. Any individual computer use area within the business shall be visible from a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the computer use area. Further, no one shall maintain any individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible to staff and customers. No doors are permitted on an individual viewing area. No partially or fully enclosed individual viewing areas or partially or fully concealed individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the police department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in

section 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.20. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced on 28th day of February, 2012 and adopted at a regular meeting of the City Council of the City of Antioch on the 13th day of March, 2012, by the following vote:

AYES: Council Members Rocha, Agopian and Mayor Pro Tem Harper

NOES: Council Member Kalinowski

ABSENT: Mayor Davis

ABSTAIN: None

/s/ WADE HARPER


Mayor Pro Tem of the City of Antioch

ATTEST:

/s/ DENISE SKAGGS

Denise Skaggs, City Clerk of the City of Antioch

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF APRIL 10, 2012**

Prepared by: Vivian Kahn, FAICP, Dyett & Bhatia
Reviewed by: Tina Wehrmeister, Community Development Director 
Date: March 26, 2012
Subject: Issues and Options for 2007-2014 Housing Element Implementation (GP-10-01)

RECOMMENDATION

It is recommended that the City Council receive public comment on the Antioch Housing Element Implementation Program, Issues and Options, Public Review Draft and provide direction to City Staff and Consultant for drafting amendments that would revise the City Zoning Ordinance (Antioch Municipal Code Title 9, Chapter 5) and zoning map.

BACKGROUND INFORMATION

The City of Antioch has adopted a Housing Element for the 2007-2014 planning period as part of its General Plan. The Housing Element establishes a comprehensive program for implementing the City's housing policies and bringing the City into full compliance with State law. The actions the Housing Element proposes to undertake to implement the Housing Element include a variety of amendments to the Zoning Ordinance (Antioch Municipal Code Title 9, Chapter 5) ranging from relatively straightforward text changes to make the regulations consistent with State density bonus requirements to the establishment of new zoning districts and programs to accommodate new dwelling units.

The Association of Bay Area Governments (ABAG) calculated Antioch's Regional Housing Needs Allocation (RHNA) for the seven-year planning period to be 2,282 units including 516 very low-income and 339 low-income units. However, because the Housing Element, for the previous (1996-2006) planning period did not identify enough sites to accommodate the entire allocation of very-low and low-income units, the City's adjusted RHNA increased to 3,310 units. After accounting for projects that had received permits from the City or were under construction, the Housing Element calculated that the City needed to find sites to accommodate 1,784 low and very low-income units.

Because the City was unable to find enough land to meet its share of the regional need for lower-income units, it will probably need to amend its existing ordinance to allow some residential projects to be approved without a conditional use permit or planned development approval. This will require the formulation of development and design standards that can be implemented through a ministerial approval process. In so doing, the City must ensure that future housing development will not only provide the number of units that the City needs to accommodate but will do so in projects that contribute to making Antioch an attractive and desirable community for present and future residents.

The City hired Dyett & Bhatia (the Consultant) to translate the specific proposals in the Housing Element program into regulations and procedures. The major focus of the Consultant's work is to create a user-friendly, legally adequate, and effective set of provisions that will accommodate the units needed to meet the City's housing allocation in a manner that will emphasize building placement, the framing of public space, and promoting a pedestrian-oriented environment.

The Consultant's work on this project began with a thorough review of the Antioch Housing Element and other City plans and regulations to determine what the City needs to do to meet the requirements of State law. As part of the initial fact-finding process, the Consultant conducted a series of interviews with City staff and officials including a majority of the Planning Commission and Council members. The purpose of the confidential interviews was to find out what City officials identify as the major problems with the City's existing land use and development regulations with respect to the type of residential and mixed-use development they want to see in Antioch. The Consultant also asked about the types of community benefits the City should request in exchange for providing developers with incentives to pursue the types of projects the City desires. Opportunities to participate in the interview process through interviews and by e-mail were also extended to a list of developers, property owners, and community groups that City staff identified as having potential interest in the project or relevant expertise.

Based on the input from these interviews and review and analysis of the 2007-2014 Housing Element, the current Zoning Ordinance and the Citywide Design Guidelines, the Consultant prepared a paper with findings and recommendations for zoning and/or General Plan amendments. The Planning Commission reviewed the paper and considered the recommendations at its meeting on February 1, 2011. The attached version of the paper identifies the options the Commission discussed and includes their recommendations for City Council approval.

DISCUSSION

Issues and Options

The attached paper is organized according to the following six major topics:

- Adequate Housing Sites
- Design and Development Standards and Guidelines
- Residential Parking Requirements
- Development Bonuses and Incentives;
- Emergency, Transitional, and Supportive Housing
- Zoning for Employee and Farmworker Housing

The paper provides an overview of the State requirements associated with each of the six major topics, identifies issues and conflicts concerning each topic, and describes some options available to the City to guide the formulation of viable approaches that would bring the City into compliance with State law.

1. Adequate Housing Sites

To meet the requirements of State law, the City of Antioch needs to demonstrate that it has sufficient sites available to accommodate 1,784 units for lower-income households. This figure includes 823 units to meet the City's share of the projected regional housing need for the current planning period (Housing Element, Table B-2) and 1,380 units carried over from the prior planning period reduced to reflect the fact that 419 units were approved but not yet built.

The law provides cities with several options for complying with the requirement to accommodate its share of the region's need for lower-income units. One approach is to rezone sufficient land to accommodate its allocation for lower-income units at the so-called "default density" (30 units/acre for Antioch and other suburban cities with more than 100,000 population). If a city is unable identify enough sites where housing could be built to meet its allocation of lower-income units at this density, it must amend its zoning ordinance and map to accommodate 100 percent of the unmet need for low and very-low housing on sites where development is allowed by right at a density of 20 units per acre. In addition, at least 50 percent of the very low and low-income need must be on sites zoned exclusively for residential use.

There are at least two approaches the City could take to provide sites for low-income units as required by the State law. The Council previously provided direction on which sites to rezone. The options available have changed; most notably there is an option to continue to require a Use Permit at the minimum 30 units per acre density and therefore appropriate for Council to revisit this issue.

Option 1: Rezone 106.5 acres to establish a zone where multi-family development is permitted by right at 20 units per acre and rezone sufficient land at a minimum density of 30 units per acre to meet the balance of the need (Figure 2.1-A), OR

Option 2: Rezone 59.47 acres at a minimum density of 30 units per acre to meet the entire need and continue to require a conditional use permit or planned development approval for all or some units.

Table 2.1-A in the report lists all of the sites that the Planning Commission considered for rezoning. Table 2.1-B shows the zoning changes that the Commission is recommending to the City Council. Figures 2.1-A and 2.1-B identify the location and current zoning of all of the sites considered and the changes the Commission is recommending for Council approval.

The Commission recommends Option 2, which includes accommodating a significant proportion of the City's need for affordable housing on sites in the Hillcrest Station Area, which can accommodate up to 38 units per acre as proposed in the Station Area Plan approved in 2009. Developers who include affordable units would be entitled to up to 35 percent higher densities, more than 40 units per acre, under the State's density bonus law. With this option the City could continue to require a conditional use permit in addition to design review approval of proposed development. Its authority to impose conditions that would have the effect of reducing density would, however, be severely limited by the "anti-NIMBY" law (Government Code Section 65589.5 (d)). Most of the remaining balance of the City's housing need can be accommodated on other sites that would be rezoned to require development at a minimum density of 30 units per acre. Development on these sites would be subject to approval of a Use Permit but State law would not allow the City to impose conditions that would require reduced densities. Another 8 acres on Tregallas Road and Wilbur Avenue would be rezoned to allow residential

development with a minimum density of 20 units per acre by right. This means that the City would not be able to require a Use Permit but projects would still be subject to design review.

Table 2.1-C shows how the Commission’s recommendation would accommodate Antioch’s share of the regional need for lower-income units.

Table 2.1-C: How Commission Recommendation for Rezoning Accommodates Antioch’s RHNA for Lower-Income Units	
Total Un-accommodated Need for Lower-Income Units	2203
Permitted Projects in Pipeline	419
Remaining Need for Lower Income Units	1784
Zoning Capacity Under Proposed Option 1	
On Sites Rezoned at 30 units/Acre or More	597
On Sites Rezoned for Residential Zoning at 20 units/acre by right	158
On Sites Rezoned for Transit-Oriented Development at 20 to 40 units/acre	1000
On Sites Rezoned for Planned Development at 20 units/acre or More	172
Total Capacity under Proposed Option 2	1927

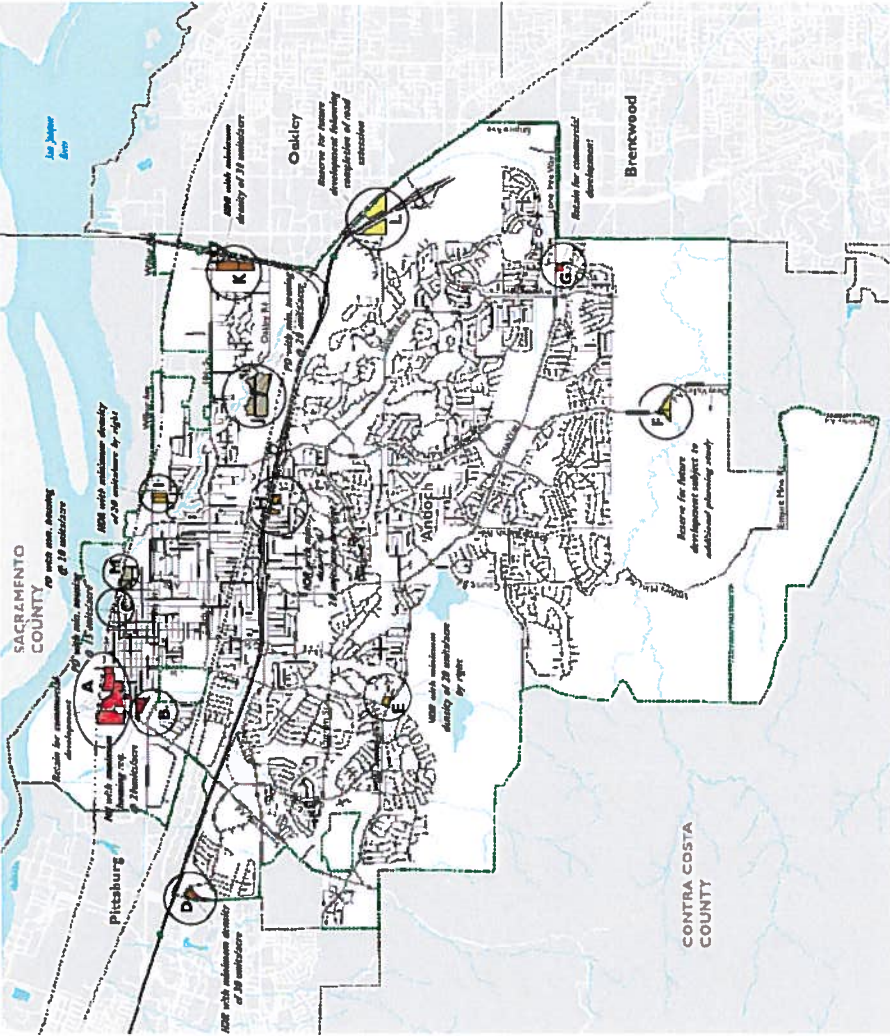


Figure 2.1-3
City of Antioch
Sites Considered for Rezoning
(Sites by Proposed Zoning)

- High Density Xes density (min. density of 20 (obscure))
- High Density Xes density (min. density of 30 (obscure))
- Planned Development (min. lot size of 15,000 sq ft)
- Planned Development (min. lot size of 20,000 sq ft)
- Mixed Use - 10 units/lot (min. lot size of 20,000 sq ft)
- Reserve for future development (to be used on completion of road construction)
- Reserve for future development (to be used on completion of road construction)
- Reserve for institutional development
- Reserve for institutional development

NOTES

1. The City of Antioch is currently in the process of reviewing development.
2. The City of Antioch is currently in the process of reviewing development.
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19. The City of Antioch is currently in the process of reviewing development.
20. The City of Antioch is currently in the process of reviewing development.

2. Design and Development Standards and Guidelines

Antioch's Zoning Ordinance relies heavily on fixed development standards for some basic elements of building and site planning (e.g. height, setbacks, coverage, and parking) but omits reference to others that can affect the appearance and operation of development. The existing ordinance does not, for example, include standards or requirements for usable private or common open space. Even though it requires applicants to prepare and obtain approval of landscape plans for all new construction and most exterior alterations to buildings over 2500 square feet, the code does not specify minimum requirements for landscaping.

The lack of standards is somewhat mitigated by regulations that require projects to adhere to the City Design Guidelines adopted in October 2009 but it is preferable to have both standards and supplementary guidelines. Antioch's Citywide Design Guidelines provide qualitative direction for a variety of specific site planning, architecture, and landscaping features. As such, they serve to supplement rather than replace objective standards. In some cases, however, the design guidelines suggest approaches that may, in fact, create conflicts with the current development standards.

Collectively, these requirements affect the form of buildings, their relationship to the street and surrounding development, and, ultimately, the look and feel of Antioch's neighborhoods and districts. With the exception of the Rivertown Development District, however, the current standards do not present a coherent and coordinated approach to design or reflect a coherent vision for various zones within the City.

The adoption of additional standards that address a wide variety of building and site features will help to convey the City's expectations for new residential and mixed-use development regardless of whether the project will require approval of a Conditional Use Permit or Planned Development Permit. Having such standards in place will be particularly important in districts where the revised Zoning Ordinance allows new residential development by right as the Housing Element proposes. It will be particularly important to ensure that development standards reflect Antioch's collective vision for future development and to avoid conflicts between the City's standards and design guidelines if some residential projects will not be subject to a Conditional Use Permit.

At a minimum, the zoning ordinance should be amended to establish fixed standards and requirements to regulate development features where the Guidelines provide qualitative guidance but do not prescribe requirements. Some of the changes to consider include:

- Reducing the existing 25 to 30-foot setback from collector streets and establishing front yard build-to or set back zones that would allow homes closer (about 10 to 15 feet) to the street;
- Creating visual interest by allowing bays to project up to 3 feet and porches from 6 to 8 into the setback area;
- Requiring parking to be located to the rear instead of in front of buildings whenever possible. For example, require to be set back 40 feet from the primary street frontage and limit the extent of total frontage that can be devoted to parking to a maximum of 25 percent. Allow parking in the side yard if it is within 10 feet of or aligned with side yard building setback and screened with low wall, fence or planting (e.g. hedge);

- Requiring residential buildings to be designed so the primary frontage and main entrance face the street;
- Requiring entries to include porches, stoops or for larger building lobby entries to distinguish the primary frontage; and
- Establishing rear yard setbacks, step-backs, or daylight planes to buffer higher density development from adjacent single-family homes (requiring parking to be located to the rear would help to ensure this separation).

The City could also amend the zoning ordinance to revise requirements that are an obstacle to development on infill sites or can now only be modified by a discretionary review process that increases the time and cost of projects. A third approach, which is not within the scope of this project, would be to establish a ministerial design review process that uses a design checklist based on the Citywide Guidelines eliminating the need for discretionary review for some projects.

The Planning Commission recommends that the Ordinance be amended to incorporate fixed development standards based on the Citywide Design Guidelines Manual and to modify other standards that are an obstacle to development on infill sites and in other areas where the City wants to encourage development.

3. Residential Parking Requirements

Under the existing regulations, parking requirements for affordable housing projects are modified on a case-by-case basis. If the ordinance is amended to create a new district that allows residential development at 20 units per acre by right, projects that include lower income units and are entitled to a density bonus under State law would be entitled to reduced parking by right. Affordable housing development in other districts would still be subject to discretionary review but may also be entitled to reduced parking if the project meets the requirements of the State density bonus law.

Adopting specific reduced parking standards for projects that will be occupied by lower-income households would provide greater certainty for developers and can eliminate the need for discretionary review for projects that would not otherwise require a use permit or other discretionary zoning approval. The parking requirement for these units could be reduced across the board to a percent of the standard that would otherwise apply (typically 20 to 25 percent lower) with the possibility of further reductions tied to additional requirements that are intended to ensure that the residents of such projects have a choice of alternatives to driving private automobiles. These could, for example, include providing shuttle or van service to shopping, social services, and transit stations or limiting the areas where parking reductions apply to neighborhoods or districts that are closer to transit or shopping. Within the Rivertown area, the revised ordinance could offer the option of paying an in-lieu fee that would be used to construct a future parking structure. Once the City identifies a site, it could be used to provide additional surface parking for downtown businesses and residents.

The Commission recommends that instead of establishing lower parking standards the City should continue to require discretionary review to modify parking requirements. Revisions to the ordinance should expand the authority of the Planning Director or the Planning Commission to modify parking requirements on a case-by-case basis when supported by specific information in the record. Approval may be subject to conditions including periodic monitoring of trip reduction measures to verify their effectiveness.

4. Development Bonuses and Incentives

In 2004, the State enacted significant changes to the State's density bonus law, which went into effect on January 1, 2005. The legislation (SB 1818 chaptered as Government Code Section 65915-65918) required cities and counties to overhaul their ordinances to bring them into conformance with new state mandates, which reduced the proportion of affordable units developers had to provide to be entitled to additional density and other incentives and concessions necessary to make units affordable. Antioch has not yet revised its ordinance to reflect these changes. The Housing Element also proposed that the City offer additional incentives to encourage the production of affordable housing in the Rivertown Focus Area.

State law would allow Antioch to request that a developer choose a concession or incentive from a list of acceptable concessions; although, under certain circumstances, a developer may request and be entitled to other incentives not on the City's preferred list. The State law does allow the City to deny a developer's request for additional incentives or concessions if it can find, based on information in the record, that the proposed waiver or modification is not necessary to make the affordable units economically feasible. Even though the Government Code establishes the rules for making such determinations, including such a procedure in its own zoning ordinance would allow the City to better express its priorities and clarify its expectations for projects that are eligible for density bonuses.

The current zoning ordinance includes a Senior Housing Overlay District that provides an incentive to developers of senior housing by establishing a higher base density with additional density for projects that are affordable to low and very low-income seniors and/or located close to services. The provisions of Article 34 can allow developers to build at densities as high as 70 percent over the base density if their projects meet all of the criteria. Although the State density bonus requirements supersede local ordinances, as the Housing Element proposes and to provide clear direction to applicants and neighbors, the City needs to revise Article 35, the Non-Senior Housing Density Bonus Program, which the City adopted in 1994, to comply with the current requirements of the State density bonus law.

Instead of just incorporating the provisions that the State law specifies, the City could use this opportunity to establish regulations and procedures to clarify how it implements the State mandate. This will allow the City to tailor the requirements to better respond to local interests as long as the City ordinance conforms to State law. To implement the Housing Element proposal for providing additional incentives for affordable housing in the Rivertown Focus Area, the City would probably have to offer incentives and concessions that are equivalent to those available under the State density bonus law for market rate projects and exceed those to which projects would be otherwise entitled for developments that include affordable units. The City could also offer incentives to developers who provide other benefits to the community in Rivertown as well as other parts of Antioch. These could include streetscape improvements, public art, privately-owned public open space, and other community facilities.

The Commission recommends that in addition to revising the Zoning Ordinance to be consistent with the State's density bonus law (Government Code 65915), the City should also amend Article 34 and 35 of the Zoning Ordinance to clarify and augment its procedures for implementing the State density bonus law. The Commission recommends that any provisions intended to provide additional incentives be subject to discretionary review but does not recommend establishing any new incentive programs at this time.

5. Emergency, Transitional, and Supportive Housing

SB 2 amended the Government Code to require cities and counties to explicitly recognize emergency, transitional, and supportive housing in their zoning regulations and to adopt provisions intended to remove obstacles to providing emergency shelters, transitional housing for those who were formerly homeless, and supportive housing accommodating persons with disabilities. Because Antioch does not have sufficient facilities to meet the need for emergency shelters, it must identify a zone or zones where at least one year-round shelter can be established by right. State law does not require jurisdictions to quantify the unmet need for transitional or supportive housing. It does, however, require that local agencies revise their zoning ordinances as necessary to ensure that these facilities be treated as residential uses and subject to the same requirements as comparable residential uses in the same zoning district. In contrast to transitional housing, which is semi-transient by definition and may be occupied by any individual who is in transition from homelessness, supportive housing is permanent housing for individuals with disabilities.

The Zoning Ordinance now allows emergency shelters to be established in industrial districts subject to approval of a Conditional Use Permit. The Housing Element proposed to amend the Ordinance to allow an emergency shelter by right on City-owned land near Delta Fair and Century Boulevard (see Parcel D in Table 2.1-A of the Issues and Options report) including a site that the Bay Area Rescue Mission had considered for a transitional housing facility. Based on an estimated density of 200 shelter beds per acre, the three sites in Parcel D, which include a total of 6.39 acres, could accommodate both the 124 emergency shelter beds the City needs to meet the State requirement as well as 100 units of transitional housing and associated services.

The Planning Commission considered the following options and recommends them all for Council approval with a modification specifying that the overlay district include the City-owned parcels on the north side and a site or sites in the M-1 (Light Industrial) zone that contain approximately one half acre or more to accommodate the balance of the need for emergency housing.

Option 1: Establishing an overlay district where an emergency shelter would be allowed by right near Delta Fair and Century Boulevard reserving one of the parcels for multi-family residential use at 30 units per acre subject with a Use Permit and continuing to allow emergency shelters elsewhere in industrial zones with a Use Permit;

Option 2: Amend the Zoning Ordinance to add a definition of “transitional housing” that cross-references the definition in the California Health and Safety Code and also list transitional housing as a residential use with reference to the new definition.

Option 3: Amend the zoning ordinance to define Single Room Occupancy (SRO) units as a form of multi-family housing subject to standards and requirements applicable to comparable multi-unit residential facilities and allow SRO hotels in the Rivertown High Density Residential and Transit-Oriented Residential Districts subject to specific limitations.

The current zoning ordinance identifies residential care facilities, one of the most common forms of supportive housing, as a residential use but does not include a definition for either residential care facility or supportive housing. To comply with State and federal law, residential care facilities serving six or fewer people (not including the operator or staff who provide services that residents need to sustain daily life) must be treated as a single-family use. Licensed facilities that serve seven or more residents may be subject to a use permit but any standard requirements or conditions imposed on such facilities must be comparable to those imposed on other group residential facilities such as convents and fraternity houses.

Cities have somewhat greater latitude to regulate both large and small unlicensed facilities as long as they heed the requirements of federal and State laws that protect housing opportunities for persons with disabilities as well as the right of a group of unrelated persons to live together as a single household under the California Constitution. Unlicensed supportive housing facilities include a type of accommodation commonly called a “clean and sober” house. Antioch’s existing zoning ordinance does not include any regulations that specifically apply to unlicensed supportive housing including facilities for persons who are disabled due to substance abuse problems. Moreover, the current definition of Boarding and Rooming House also appears inapplicable to some unlicensed facilities because it excludes those with more than two guest rooms.

State and federal laws prohibit zoning regulations that discriminate against housing arrangements for persons with disabilities and also require that cities establish provisions that allow modification of regulations when necessary to ensure that disabled persons have equal access to housing. Cities may not adopt regulations that distinguish facilities according to the characteristics of occupants but they may enact ordinances that apply to all of the facilities within a use category such as all group living accommodations or all multi-unit housing. To the extent permitted by State and federal fair housing laws, revised regulations could include:

- Identifying the districts where facility types are allowed;
- Specifying the type of approval required to establish facilities;
- Establishing performance requirements applicable to different development types.

The Planning Commission recommends that the Ordinance be amended to incorporate all of the following options, which will bring the City into compliance with State and federal law while improving the City's ability to regulate such uses to the extent allowed by applicable statutes.

Option 1: Revise the zoning ordinance to define and classify a range of supportive housing types and revise use regulations based on the development and operation characteristics of different uses.

Option 2: In addition to including new definitions, review and amend use regulations to identify the districts in which facility types are allowed and to specify the type of approval required. The changes would include classifying unlicensed facilities as Boardinghouses subject to a Use Permit in R-10 and R-20 districts.

6. Zoning for Employee and Farmworker Housing

State law requires housing elements to include an analysis of special housing needs, for groups likely to face financial hardship, discrimination, or other challenges in retaining safe and affordable housing. The law specifically requires analysis of the certain groups, including farm-workers. Based on review of census data, there does not appear to be any need for the City to make specific changes to its regulations to comply with these requirements.

ATTACHMENTS

A: Antioch Housing Element Implementation Program, Issues and Options, Public Review Draft, Revised March 2012

B: Adopted 2007-2014 Housing Element available on-line at:
<http://www.ci.antioch.ca.us/CityGov/CommDev/PlanningDivision/Housing-Element-docs.htm>

Antioch Housing Element Implementation Program

Issues and Options

Revised Public Review Draft

Prepared for

The City of Antioch

By

DYETT & BHATIA

Urban and Regional Planners

With

Van Meter Williams Pollack

March 2012

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1 Introduction

1.1 Project Objectives

The City of Antioch has adopted a Housing Element that sets forth a comprehensive program for implementing the adopted housing policies and bringing the City into full compliance with State law. The actions the City proposes to undertake to implement the Housing Element include a variety of amendments to the Zoning Ordinance (Antioch Municipal Code Title 9, Chapter 5) and map ranging from relatively straightforward text changes to make the regulations consistent with State density bonus requirements to the establishment of new zoning districts and programs to accommodate more than 3,000 new dwelling units.

The Association of Bay Area Governments (ABAG) projects modest growth for Antioch during the 2007-2014 housing element planning period. As a result, ABAG calculated Antioch's Regional Housing Needs Allocation (RHNA) for the seven-year period to be 2,282 units including 516 very low-income and 339 low-income units. However, because the Housing Element, for the previous (1996-2006) planning period did not identify enough sites to accommodate the entire allocation of very-low and low-income units, the City's adjusted RHNA increased to 3,310 units.

Because projects that had received permits from the City or were under construction included 3,830 units, Antioch was not required to identify any additional sites to accommodate housing units affordable to moderate or above-moderate income households. The projects "in the pipeline" included only 419 units that would be affordable to low-income households and none that very low or extremely low-income households could afford. As a result, the Housing Element calculated that the City still had to find sites to accommodate 1,784 low and very low-income units.

The Housing Element that the City Council adopted in June 2010 identified sites that are candidates for rezoning to meet this housing need and also proposed revisions to other zoning provisions. Because the City was unable to find enough land to meet its share of the regional need for lower-income units, it will probably need to amend its existing ordinance to allow some residential projects to be approved without a conditional use permit or planned development approval. This will require the formulation of development and design standards that can be implemented through a ministerial approval process. In so doing, the City must ensure that future housing development will not only provide the number of units that the City needs to accommodate but will do so in projects that contribute to making Antioch an attractive and desirable community for present and future residents.

The City has hired Dyett & Bhatia (the Consultant) to translate the specific proposals in the Housing Element program into regulations and procedures. The challenge is to create a user-friendly, legally adequate, and effective set of provisions that will accommodate the units needed to meet the City's housing allocation in a manner that will emphasize building placement, the framing of public space, and promoting a pedestrian-oriented environment. Antioch's new and revised development regulations should clearly communicate and effectively implement the Housing Element's proposals while promoting the overall goals and policies of the City's General Plan especially with respect to design and development standards.

A priority for this project is to craft regulations that will allow Antioch to maintain and enhance the character of existing neighborhoods and built-up areas while creating new identifiable places in the

areas designated for rezoning. Zoning standards define the basic form of development, but standards that just focus on individual structures rather than relationships among groups of structures, the natural setting, and the public domain, including streets, parks, and other public areas, cannot ensure quality design. The intent is to structure design and performance standards for residential and mixed-use areas so that they provide sufficient flexibility to achieve the City's economic development objectives while ensuring predictability and reliability for developers and businesses.

Our work on this project began with a thorough review of the Antioch Housing Element and other City plans and regulations to determine what the City needs to do to meet the requirements of State law. Grounded in this understanding, our approach is to identify and present for City consideration the key choices that are available for achieving this objective in light of both City policies and the statutory requirements.

1.2 Purpose of This Paper

This is an updated version of the paper presented to the Planning Commission incorporating the Commission's recommendations and updated information. The paper incorporates the findings of the Consultant's review and analysis of the 2007-2014 Housing Element, the current Zoning Ordinance and the Citywide Design Guidelines in light of applicable State requirements and existing conditions. The Consultant has also taken a field trip to become familiar with existing development conditions and sites available for future development and conducted interviews with members of the Council and Planning Commission. The paper is organized according to six major topics for which the Housing Element's Policy Program proposes zoning and/or General Plan amendments:

- Adequate Housing Sites
- Design and Development Standards and Guidelines
- Residential Parking Requirements
- Development Bonuses and Incentives;
- Emergency, Transitional, and Supportive Housing
- Zoning for Employee and Farmworker Housing

The paper provides an overview of the applicable State requirements associated with each subject and identifies issues and conflicts concerning each topic as a result of existing City policies and regulations. It then identifies some of the key options available to the City to guide the formulation of viable approaches for bringing the City into compliance with State law.

1.3 Next Steps

The purpose of this paper is to provide the City Council, as well as Antioch residents and property owners, with information to help them make important choices about how to revise City policies and regulations. After receiving feedback and direction from the City Council and City staff, the Consultant will draft proposed amendments to the Zoning Ordinance and other policies and regulations to implement the Housing Element proposals. The Consultant will evaluate the potential effect of adopting new standards and guidelines by applying the provisions to possible development

sites. The evaluation of potential development sites will seek to determine how the regulations would affect the feasibility of development and whether they would result in projects that represent the type of development that Antioch desires based on the City's adopted design policies and citywide design guidelines.

2 Issues and Options

2.1 Adequate Housing Sites

State law requires cities and counties to demonstrate that they have sufficient land “suitable for residential development” to accommodate their share of the regional need for new housing for the period covered by the housing element. To determine whether the sites selected can accommodate the jurisdiction’s Regional Housing Need Allocation (RHNA) and, in particular, the number of units that can be provided to accommodate the local government’s share of the regional housing need for lower-income households, the housing element must include an analysis demonstrating that the sites have adequate capacity and are or will be suitable for development. As an alternative to this analysis, if the local government has adopted minimum density standards consistent with the State’s population-based criteria, the State Department of Housing and Community Development will accept those sites as suitable for accommodating the regional housing need for lower-income households.

When a city cannot identify sufficient sites to accommodate the jurisdiction’s RHNA subject to existing zoning and land use policies, as is the case with Antioch’s current regulations, the housing element must identify the actions it will take to make sites available during the planning period with appropriate zoning. That may include amending the zoning ordinance to change the uses or density allowed. If the inventory does not identify adequate sites that can be made available during the planning period even with rezoning and other actions, the local agency must amend its zoning ordinance to accommodate all of the unmet need for very low and low-income households on sites where residential use would not require a conditional use permit, planned unit development permit, or other discretionary review or approval that would constitute a “project” under the California Environmental Quality Act. The zoning must allow at least half of the unmet need to be accommodated in districts where non-residential uses are not permitted.

2.1.1 Issues

In order to meet the requirements of Government Code Section 65583.2(c), the City of Antioch needs to demonstrate that it has sufficient sites available to accommodate 1,784 units for lower-income households. This figure includes 823 units to meet the City’s share of the projected regional housing need for the current planning period (Housing Element, Table B-2) and 1,380 units carried over from the prior planning period (as required by Section 65584.09) adjusted to reflect the fact that there were 419 units “in the pipeline”, which were approved but not yet built (See Tables 2.1B and C).

The law provides cities with several options for complying with the requirement to accommodate its RHNA. One approach is to rezone sufficient land to accommodate its allocation for lower-income units at the so-called “default density” (30 units/acre for Antioch and other suburban cities with more than 100,000 population). If a city cannot identify enough sites where housing could be built to meet its allocation of lower-income units, Section 65583.2(h) requires the jurisdiction to accommodate 100 percent of the unmet need for low and very-low housing on sites where development is allowed by right at a density of 20 units per acre (NOT 30/acre). In addition, at least 50 percent of the very low and low-income need must be on sites zoned exclusively for residential use.

State law establishes 30 units/acre as the density necessary to make affordable housing economically feasible in Antioch. This “default” density is assigned according to the size of the community and whether it is located in a Metropolitan Statistical Area with a population greater than 2 million’s

population regardless of local development conditions. In some communities the higher construction costs associated with development at that density makes it difficult to build housing affordable to lower-income households at this level. Unless the jurisdiction has established or allows a lower than typical parking ratio, projects at 30 units/acre will usually need to have at least some parking within a structure. Due to the higher cost of podium structures (i.e. housing above ground level parking), the result may be relatively large buildings with large surface parking lots and less open space. It is difficult to make this type of development fit on infill sites in lower-scale neighborhoods although it might work on larger sites that are not within an existing neighborhood.

Senior housing may be feasible at 35 to 40 units per acre but a base density of 20 units per acre is better suited to projects with units affordable to households earning less than 80 percent of median income. Under State law (Government Code 65915), a project that includes units affordable to low and very low-income households would be entitled to up to 35 percent greater density, an effective density of 27 units per acre, and additional incentives, such as reduced parking or setbacks. This would make it feasible to develop affordable housing on a site zoned for 20 units per acre, currently the maximum density that the Antioch zoning ordinance allows on a residentially zoned site. Some of Antioch's existing affordable housing developments, including Rivertown Place and West Rivertown Apartments, have 22 to 25 units per acre. Elsewhere in Contra Costa County, affordable housing developments such as Los Medanos and East Leland Apartments in Pittsburg and Bella Monte Apartments in Baypoint were built in the range of 22 to 27 units per acre.

2.1.2 Options

The Housing Element (Program 2.1.2, p. 5-6) proposed to meet the State requirements by rezoning at least 59.47 acres to allow residential development by right (i.e. without a conditional use permit or other discretionary zoning approval) at a minimum net density of 30 units per acre. In fact, there are other ways for the City to comply with State law. The primary choices are:

Option 1: Rezone about 106 acres to establish a zone where multi-family development is permitted by right at 20 units per acre and rezone sufficient land at a minimum density of 30 units per acre to meet the balance of the need, OR

Option 2: Rezone 59.47 acres at a minimum density of 30 units per acre to meet the entire need and continue to require a conditional use permit or planned development approval for all or some units.

The Housing Element (Table B-4) identified nine sites with a total of 61 acres that could be rezoned to allow development of 1,830 units at a minimum of 30 units per net acre. The current zoning regulations do not allow residential use on six of the sites, all within the Rivertown/Urban Waterfront Focus Area, that comprise more than 50 acres. Five of these properties are now zoned Planned Business Center (PBC) and the other Neighborhood/Community Commercial (C-2). The remaining sites, with a total of just of 10 acres, are now zoned Mixed Commercial/Residential (MCR) and Single Family Residential (R-6).

The State's requirements for housing elements reflect the assumption that 30 units per net acre is the minimum density needed to make the development of affordable housing feasible but this is not necessarily the case. Depending upon the size, topography, and location of housing sites as well as market conditions, development at lower densities may work for some projects. With a density bonus and additional concessions, such as reduced setbacks or open parking as provided for by the State

density bonus law, projects on smaller infill sites may be feasible if the base density is 20 to 25 units per acre.

The Planning Commission had previously removed several sites from consideration for various reasons including objections from the property owner and, in the case of Site J, because the Commission felt that discretionary review of projects would be appropriate. At its meeting on February 1, the Commission made further revisions to the list of sites proposed for rezoning and recommended Option 2 for Council consideration. Table 2.1-A lists all of the sites that the Planning Commission considered for rezoning. Tables 2.1-B and C summarize the City’s remaining need for low and very low-income units and show how the zoning changes the Commission recommends would accommodate these units. Figures 2.1-A and 2.1-B identify the location and current zoning of all of the sites considered and the changes the Commission is recommending for Council approval.

The Commission’s recommendation includes accommodating a significant proportion of the City’s need for affordable housing on sites in the Hillcrest Station Area, which can accommodate up to 38 units per acre as proposed in the Station Area Plan approved in 2009. Developers who include affordable units could be entitled to up to 35 percent higher densities, more than 40 units per acre, under the State’s density bonus law. With this option the City could continue to require a conditional use permit in addition to design review approval of proposed development. Its authority to impose conditions that would have the effect of reducing density would, however, be severely limited by the “anti-NIMBY” law (Government Code Section 65589.5 (d)).

	Address	APN	Acres	Current Zoning	Commission Recommendation	Potential Zoning	Potential Capacity (Units)
A	1700 West 4 th Street	074 040 047	17.4	Planned Business Center (PBC)	Retain for future consideration	Residential with minimum density of 20 units/acre by right	348
	1400 West 4 th Street	074 040 025	16.6	Planned Business Center (PBC)	Retain for future consideration	Residential with minimum density of 20 units/acre by right	332
	1300 West 4 th Street	066 110 005	3.7	Planned Business Center (PBC)	Retain for future consideration	Residential with minimum density of 20 units/acre by right	74
	1200 West 4 th Street	066 110 009	9	Planned Business Center (PBC)	Retain for future consideration	Residential with minimum density of 20 units/acre by right	180
	110 L Street	066 110 008	2.1	Planned Business Center (PBC)	Retain for future consideration	Residential with minimum density of 20 units/acre by right	42
	1409 West 4 th Street	074 130 002	2	Neighborhood/Community	Retain for future	Residential with minimum density	40

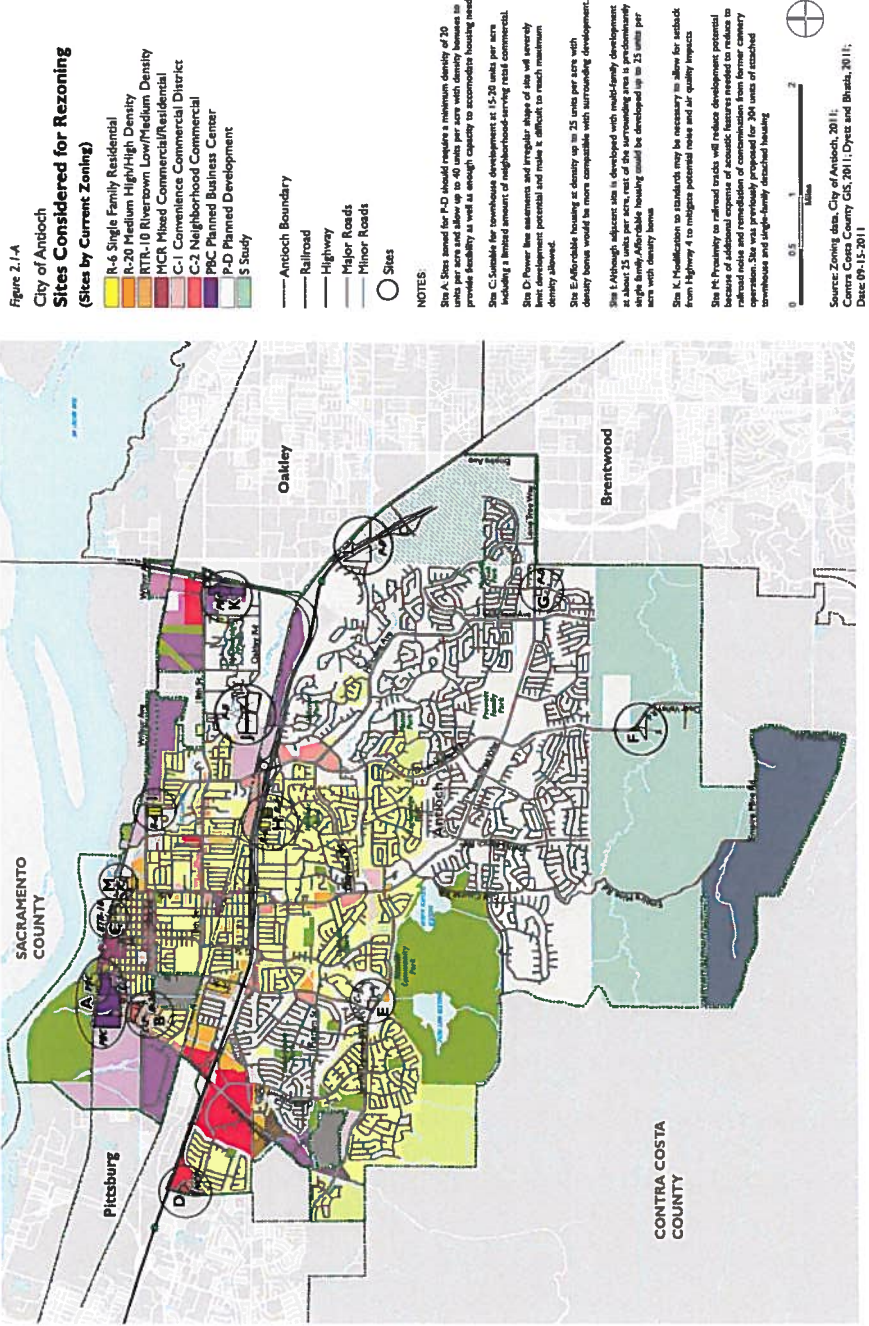
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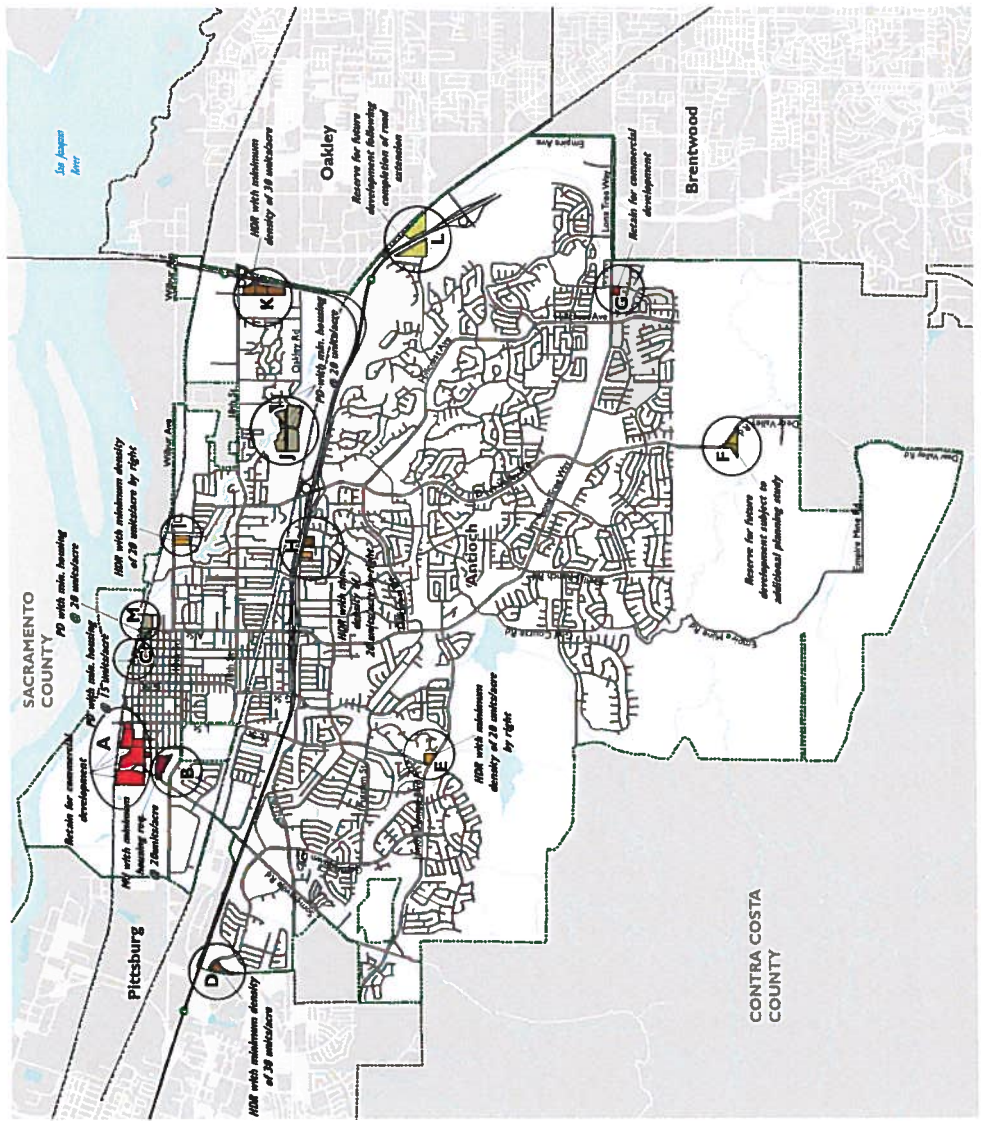
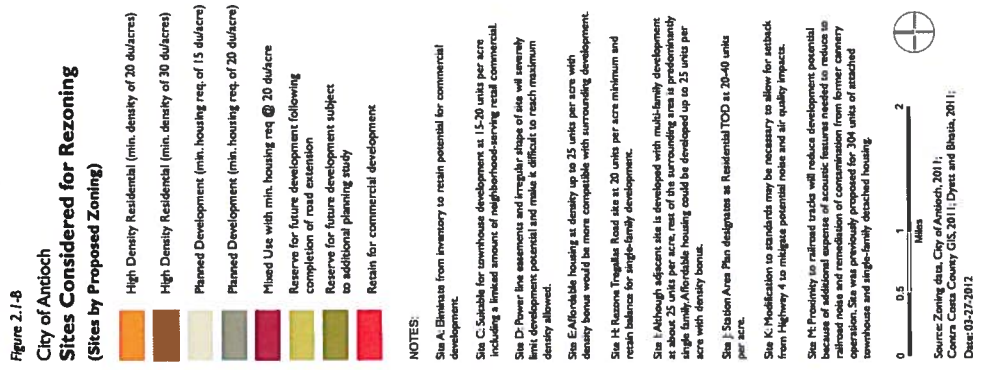
Table 2.1-A: Sites Considered for Rezoning and Potential Capacity							
	Address	APN	Acres	Current Zoning	Commission Recommendation	Potential Zoning	Potential Capacity (Units)
				Commercial (C-2)	consideration	of 20 units/acre by right	
B	W 6th Street	074 130 081	3.5	Neighborhood / Community Commercial (C-2)	Retain for future consideration	Mixed Use with minimum housing requirement at 20 units/acre	74
		074 130 025	1.9				
		074 130 064	1				
		074 130 076	1				
C	City Property Across from Beede Lumber	066 055 001	1.4	Rivertown Residential 10 units/acre (RTR-10)	Retain for future consideration	Planned Development with minimum housing requirement at 15 units/acre	80
		066 041 004	3.9				
D	Delta Fair Boulevard (Bay Area Rescue Mission site)	074 080 034	4.8	Western Gateway Focus Area / Mixed Residential / Commercial (MCR)	Residential at 30 units/acre minimum	Residential with minimum density of 30 units/acre	144
E	Northeast corner James Donlon Boulevard and Contra Loma Boulevard	075 460 001	3.1	Convenience Commercial (C-1)	Retain for future consideration	Residential by right with minimum density of 20 units/acre	62
F	Deer Valley Road and Sand Creek Road	057 041 023 057 041 024	7.3+	Study Area (S)/Public/Quasi Public (PQP)	Reserve for future development subject to additional planning study	--	--
G	5200 Lone Tree Way	056 270 059	2	Planned Development	Retain for commercial as proposed by owner	--	--
H	620 Tregallas Road	068 251 012	2.5	Single Family Residential (R-6)	Residential at 20 units/acre minimum	Residential by right with minimum density of 20 units/acre	50
	2709 Windsor Drive	068 252 045	0.7	Single Family Residential (R-6)	Retain for single family residential	--	--
	2721 Windsor Drive	068 252 041	1				

All

Table 2.1-A: Sites Considered for Rezoning and Potential Capacity							
	Address	APN	Acres	Current Zoning	Commission Recommendation	Potential Zoning	Potential Capacity (Units)
	Windsor Drive	068 252 042	0.1				
	Windsor Drive	068 252 043	0.8				
	Windsor Drive	068 252 044	0.9				
I	810 Wilbur Avenue	065 110 006	2.9	High Density Single Family Residential (R-6)	Residential at 20 units/acre minimum	Residential by right with minimum density of 20 units/acre	108
	701 Wilbur Avenue	065 110 007	2.5				
J	Residential TOD in Hillcrest Station Area Specific Plan	Various	38.2	Planned Development	Residential up to 40 units/acre	Planned Development with minimum density of 20 units/acre	1000
K	1841 Holub Lane	051 200 037	4.4	Planned Business Center (PBC)	Residential	Residential with minimum density of 30 units/acre	453
	Holub Lane	051 200 038	5				
	Holub Lane	051 200 039	5.7				
L	Properties generally north of the Wildhorse Road Extension, on either side of the Bypass	04.1 022 003	11.7	Planned Development	Reserve for future development following completion of road extension	Reserve for future development following completion of road extension	--
		041 022 004	14.6				
M	6 th and A Street (Hickmott Cannery)	066 032 024	3.5	Planned Development (PD)	Mixed Use	Planned Development (PD) with minimum density of 20 units/acre	172
		066 032 019	5.1				
Totals			106.5				3159

Table 2.1-A: Sites Considered for Rezoning and Potential Capacity							
	Address	APN	Acres	Current Zoning	Commission Recommendation	Potential Zoning	Potential Capacity (Units)
Notes:							
<ol style="list-style-type: none"> 1. Site A: Sites zoned for Planned Development should require a minimum density of 20 units per acre and allow up to 40 units per acre with density bonuses to provide flexibility as well as enough capacity to accommodate housing need. 2. Site C: Suitable for townhouse development at 15-20 units per acre including a limited amount of neighborhood-serving retail commercial. 3. Site D: Power line easements and irregular shape of site will severely limit development potential and make it difficult to reach maximum density allowed. 4. Site E: Affordable housing at density up to 25 units per acre with density bonus would be more compatible with surrounding development. 5. Site I: Although adjacent site is developed with multi-family development at about 25 units per acre, rest of the surrounding area is predominantly single family. Affordable housing could be developed up to 25 units per acre with density bonus. 6. Site J: Station Area Plan allows 20-40 units per acre. Potential projected capacity assumes development at about 26 units per acre. 7. Site K: Modification to standards may be necessary to allow for setback from Highway 4 to mitigate potential noise and air quality impacts. 8. Site M: Proximity to railroad tracks will reduce development potential because of additional expense of acoustic features needed to reduce exposure to railroad noise and remediation of contamination from former cannery operation. Site was previously proposed for 304 units of attached townhouse and single-family detached housing. 							
Source: City of Antioch, 2010; Dyett & Bhatia, 2011, 2012							





A15

	<i>Extremely Low Income</i>	<i>Very Low Income</i>	<i>Low Income</i>	<i>Total</i>
Carryover from 1999-2006 RHNA		921	459	1380
Adjusted 2007-2014 RHNA	258	235	330	823
Total Remaining Need	258	1156	789	2203

Total Un-accommodated Need for Lower-Income Units	2203
Permitted Projects in Pipeline	419
Remaining Need for Lower Income Units	1784
Zoning Capacity Under Proposed Option 2	
On Sites Rezoned at 30 units/Acre or More	597
On Sites Rezoned for Residential Zoning at 20 units/acre by right	158
On Sites Rezoned for Transit Oriented Development at 20 to 40 units/acre	1000
On Sites Rezoned for Planned Development at 20 units/acre or More	172
Total Capacity under Proposed Option 2	1927

2.2 Design and Development Standards and Guidelines

A zoning ordinance typically contains three types of standards: fixed, performance, and discretionary. The type of standard used depends upon the purpose of the district and how district regulations will be administered.

Fixed Standards. These standards, which are probably the most common approach to regulation, quantify physical characteristics of development to ensure a predictable outcome. They are typically dimensional and establish a numerical minimum requirement or a maximum limit to govern development, such as a maximum building height or minimum setback. They can also be used to regulate features that identify and distinguish neighborhoods and districts. These defining features may include architectural style, typical setbacks and heights, roof styles (pitched, flat, etc.), street widths, presence and type of landscaping, and where parking is located.

Carefully crafted standards can be used in lieu of discretionary review to ensure that infill projects are compatible with surrounding development. Building scale, for example, can be regulated through the application of a combination of volumetric standards such as maximum FAR, and sliding-scale height provisions depending on roof slope and the type and proximity of surrounding development. Standards such as minimum setback could also be tied to existing neighborhood conditions. For example, certain development standards apply if at least 60 percent of the nearest 10 houses on each side have a specified condition (such as garages located to the side or rear of buildings).

Performance standards regulate the outcome or “performance” to be achieved by development. These standards result in requirements that can be measured but they will vary from site to site depending upon the desired outcome. Examples of performance standards include measures that limit the number of trips that can be generated by businesses adjacent to residential zones, noise standards that imposes a more stringent noise threshold on lots that border residential zones, and provisions that limit the extent of shadows cast by new buildings.

Objective development standards are very useful for dealing with certain design issues because they provide clarity for applicants and cut down on the amount of interpretation and negotiation that is needed to make decisions.

Discretionary standards. Like fixed and performance standards, these are standards that projects must meet to be approved. In contrast to quantifiable standards, discretionary standards are criteria that are more subjective and require a case-by-case determination such as whether a project will help to achieve certain General Plan objectives. The application of this type of standard requires a discretionary review process involving public notice and a decision by staff or appointed city officials. Decisions are typically subject to appeal to a higher body, which is usually comprised of elected officials.

Guidelines. One way to reduce some of the uncertainty associated with a discretionary review process is to use guidelines as a basis for decisions. Guidelines are commonly used as part of a discretionary design review process but can address other issues as well. Guidelines are typically advisory direction-setters that provide examples of desirable outcomes. A carefully crafted set of guidelines explains the objective to be achieved and suggests a variety of approaches but does not preclude alternatives that may be more creative ways to achieve the desired outcome.

Successful design review usually combines objective standards with guidelines that give examples of acceptable solutions. Guidelines can provide an important link between General Plan policies and more precise and exact zoning standards by describing and suggesting approaches that would be appropriate in different situations. In contrast to zoning standards that might, for example, specify build-to lines to support pedestrian activity, a guideline intended to create pedestrian-oriented streets may suggest that new retail buildings should include entrances, outdoor seating areas, porches, or arcades that promote pedestrian use of the street edge leaving it up to the applicant to decide on the approach that is most appropriate for the project.

A design review process that is based on clear standards that quantify requirements (e.g. maximum height, minimum setbacks, etc.) as well as guidelines, which are direction-setters and offer examples of desirable outcomes, often works best. This combination of tools provides direction, avoids abuse of discretion, and offers certainty to both applicants and members of the general public. Although a highly discretionary design review process may offer the greatest amount of flexibility, it can also require a greater investment of time and money on the part of the developer and significant staff resources. It is possible, however, to craft a non-discretionary (i.e. ministerial) project review process that provides more flexibility by establishing development standards or a design checklist specifying alternative approaches. Applicants who desire even more flexibility or whose projects exceed specific thresholds (e.g. height or FAR) would be still be subject to a discretionary process.

- **Enhanced Development Standards.** Increasing the number and scope of design standards in the Ordinance could reduce the number of projects that require discretionary review. In addition to the typical requirements for height and setbacks, standards that emphasize design could include requirements for façade projections and recesses at specified intervals, minimum dimensions for window trim or recessing, and, as described above, regulations for height and setbacks that vary depending on the type or character of surrounding development. To provide more options/flexibility, a “menu” approach—in which an applicant selects from a list of alternative strategies—could be used for some standards.
- **Checklist Design Review Approval.** Checklist design review is a ministerial process, typically used for smaller projects (e.g. single-family homes in compliance with all applicable zoning standards, residential alterations, etc.). Projects must comply with all or a specified minimum number of quantified design standards that contribute to design compatibility (e.g. roof pitch, setbacks, materials, garage placement, etc.). Following a determination that a project complies with the checklist requirements and all applicable zoning and building standards, the applicant would be entitled to a building permit.

2.2.1 Issues

Antioch’s Zoning Ordinance relies heavily on fixed development standards except for the more recently enacted provisions applicable to Rivertown. The ordinance establishes fixed development standards for some basic elements of building and site planning (e.g. height, setbacks, coverage, and parking) but omits reference to others that can affect the appearance and operation of development.

The existing ordinance does not, for example, include standards or requirements for usable private or common open space. Even though it requires applicants to prepare and obtain approval of landscape plans for all new construction and most exterior alterations to buildings over 2500 square feet, the code does not specify minimum requirements for landscaping. The zoning ordinance allows building features such as balconies, bay windows, and porches to extend beyond the building wall creating

some variation in the façade but does not require buildings to incorporate such elements leaving this aspect of project development up to the design review process. Among the issues of concern to the City officials the Consultant interviewed were the need for landscaping standards for planting strips and other areas visible from the street and requirements for usable open space especially in apartment projects

Collectively, these requirements affect the form of buildings, their relationship to the street and surrounding development, and, ultimately, the look and feel of Antioch's neighborhoods and districts. With the exception of the Rivertown Development District, however, the current standards do not present a coherent and coordinated approach to design or reflect a coherent vision for various zones within the city. Moreover, in some cases the existing standards may hinder the type of development the City desires and may also increase the cost of development especially on smaller infill sites. Standards that make sense in low-density residential subdivisions may be inappropriate in areas designated for multi-unit development. For example, the existing ordinance requires 20-, 25- and 30-foot setbacks for parcels on local, collector, and arterial streets respectively throughout most of the City regardless of the type of use. This can make it difficult to design economically viable projects forcing many developers to apply for Planned Development approval. Large setbacks may also be inappropriate in areas where the City is trying to encourage more pedestrian activity.

The lack of standards is somewhat mitigated by regulations that require projects to adhere to the City Design Guidelines adopted in October 2009 but it is preferable to have both standards and supplementary guidelines. Antioch's Citywide Design Guidelines provide qualitative direction for a variety of specific site planning, architecture, and landscaping features. As such, they serve to supplement rather than replace objective standards. In some cases, however, the design guidelines suggest approaches that may, in fact, create conflicts with the current development standards. For example, the guidelines for residential development state that lot sizes and building placement should vary "to avoid a repetitive and regimented appearance" while conforming to City standards (p. 6-4). The guidelines for mixed-use development go even further encouraging buildings that extend up to the front and side property lines in order to "Create a dynamic, uninterrupted pedestrian zone" (p. 5-2). Variations in the "zero setback" are appropriate only where the resulting setback will better accommodate pedestrians, side dining areas, enhanced entries and other features that improve the pedestrian realm.

2.2.2 Options

The adoption of additional standards that address a wide variety of building and site features will help to convey the City's expectations for new residential and mixed-use development regardless of whether the project will require approval of a Conditional Use Permit or Planned Development Permit. Having such standards in place will be particularly important in districts where the revised Zoning Ordinance allows new residential development by right as the Housing Element proposes. Although Government Code Section 65583.2 (i) allows local agencies to require design review for residential projects that will not be subject to a conditional use permit or other project approval process, the Zoning Ordinance still needs to set forth clear and objective standards that define the building envelope and stipulate other requirements applicable to such projects.

Some of the guidelines prescribe fixed requirements. For example, the provisions regarding building height, scale, and articulation (Residential Guidelines p. 6-25) stipulate that a building may not

include more than eight attached units. The guidelines go on to state that buildings with three or more attached dwellings shall incorporate at least one of the following three features:

- Each dwelling unit shall have at least one architectural projection not less than 2 feet from the wall plane and not less than 8 feet wide.
- Projections shall extend the full height of single story buildings, at least one-half the height of two-story buildings, and two-thirds the height of a three-story building; or
- A change in wall plane of at least 3 feet for at least 12 feet for each two units.

Other guidelines provide clear direction but allow considerable discretion. For example:

- Buildings shall be generally oriented to the street with varying setbacks to provide visual interest and varying shadow patterns; and
- Building heights shall be varied to give the appearance of a collection of smaller structures.

At a minimum, the zoning ordinance should be amended to establish fixed standards and requirements to regulate development features where the Guidelines provide qualitative guidance but do not prescribe requirements. In addition to establishing a more detailed set of requirements for projects that could be allowed by right under the proposed zoning changes, this change would provide greater clarity to applicants regarding the City's design objectives. Assuming that the design guidelines promote and show examples of the types of streetscapes and quality development that the City wants, the zoning ordinance could be updated to include quantitative standards and requirements to ensure that all development, but especially those projects that could be established by right under the revised zoning, will be designed to in accord with the principles upon which the Guidelines are based. The most important of these changes include:

- Reducing the existing 25 to 30-foot setback from collector streets and establishing front yard build-to or set back zones that would allow homes closer (about 10 to 15 feet) to the street;
- Creating visual interest by allowing bays to project up to 3 feet and porches from 6 to 8 into the setback area;
- Requiring parking to be located to the rear instead of in front of buildings whenever possible. For example, require to be set back 40 feet from the primary street frontage and limit the extent of total frontage that can be devoted to parking to a maximum of 25 percent. Allow parking in the side yard if it is within 10 feet of or aligned with side yard building setback and screened with low wall, fence or planting (e.g. hedge);
- Requiring residential buildings to be designed so the primary frontage and main entrance face the street;
- Requiring entries to include porches, stoops or for larger building lobby entries to distinguish the primary frontage; and
- Establishing rear yard setbacks, step-backs, or daylight planes to buffer higher density development from adjacent single-family homes (requiring parking to be located to the rear would help to ensure this separation).

A number of these changes would alter requirements that are an obstacle to development on infill sites or can only be modified by a discretionary review process that increases the time and cost of projects. The City could implement the Housing Element by limiting amendments to those that would express the design guidelines as standards. This approach would modify some regulations that developers have identified as problematic. The second alternative would result in additional changes to requirements that go beyond the direction in the guidelines. A third option, which is not within the scope of this project, would be to establish a ministerial design review process that uses a design checklist based on the Citywide Guidelines eliminating the need for discretionary review for some projects. The immediate choices available to the City are to:

Option 1: Amend the zoning ordinance to incorporate fixed development standards based on the Citywide Design Guidelines Manual, or

Option 2: Amend the ordinance to establish fixed development standards based on the Design Guidelines Manual and also to modify standards that are an obstacle to development on infill sites and in other areas where the City wants to encourage development. This option could include prescribing new or additional requirements that could reduce the number of projects that require variances or planned development approval.

The Planning Commission recommends the second option.

2.3 Residential Parking Requirements

The Housing Element identified the City's current parking requirements as an indirect constraint on housing development because they reduce the amount of lot area available for residential development. The Element does not include any specific information about how Antioch's standards compare with other jurisdictions but proposed a review of existing parking requirements to ensure that they are not a constraint to residential development and, in particular, the construction of new housing affordable to lower and moderate-income households.

Recognizing that the cost of providing parking represents a significant component of development cost, the State and many local agencies have established a variety of regulations that require or authorize modification to parking requirements in order to promote affordable housing construction. Reducing the amount of required parking can also make more land available for providing residential amenities, such as landscaped open areas, and can stimulate business in commercial and mixed-use areas by making them more inviting to pedestrians.

The State Government Code allows or requires modification to parking requirements within infill opportunity zones (Section 65088.4), pursuant to trip reduction plans (Section 65089.1), for accessory or second dwelling units (Sections 65852.150 and 65852.2), and under transit village plans (Section 65460 et seq.). The next section of this paper discusses the provisions for reduced parking under the density bonus law (Section 65915). State law also specifically allows local agencies to grant a variance from parking requirements to provide an incentive to nonresidential development or make it easier for transit users to access nonresidential development.

2.3.1 Issues

Parking needs vary by income and by housing tenure. A number of studies have shown that income is a significant predictor of vehicle ownership with higher income households owning significantly more vehicles than lower-income households. Families earning 48 to 60 percent of the median for the Bay Area owned 26 percent fewer cars than the regional mean. And, when income drops to 24 to 36 percent of AMI, vehicle ownership rates drop to 44 percent of the Bay Area's average.¹

The 2000 Census also showed that those who live in larger multi-family developments own fewer cars. Nation-wide, apartment residents had an average of one vehicle per occupied unit, which was less than half the ownership rate for occupants of single-family homes. In the Bay Area, households in multi-family projects with five or more units had an average of just over one car per household, 39 percent lower than the regional average of 1.76 cars.

The vehicle ownership rate of households living in Antioch is slightly higher than the average for the Bay Area or Contra Costa County as a whole but maintains the significant difference between households in owner-occupied and rental units. According to the 2000 Census, the average number

¹ For example see Ryan Russo, *Planning for Residential Parking: A Guide for Housing Developers and Planners*, Non-Profit Housing Association of Northern California, 2001; Todd Litman, *Parking Requirement Impacts on Housing Affordability*, Victoria Transport Policy Institute, <http://www.vtpi.org/park-hou.pdf>

of vehicles that households in Antioch own was 1.97 compared with 1.87 for the county. The average number of vehicles for renters is, however, about the same in Antioch as it is for the entire County--1.43 vehicles per household for Antioch's tenants compared with 1.40 countywide. The rates for households who own their homes are 2.19 for owner-occupied housing in Antioch and 2.09 for all of the County's owner-occupied units.

Although the City's existing ordinance would require 36 parking spaces (1.8 per unit) for a 20 unit rental housing development, based on the 2000 Census only eight households could be expected to have more than one car. If the project included four units with three or more bedrooms the parking requirement would increase to 38 spaces or 1.9 spaces per unit. Requiring that parking be enclosed in a structure also increases development costs. Based on typical Bay area construction costs, the estimated cost of covered parking ranges from about \$25,000 per space for concrete podium parking to as high as \$40,000 per space depending upon the type of construction. The cost per space in a framed garage could be \$10,000 to \$15,000. In contrast, uncovered surface parking is likely to cost \$5,000 to \$7,000 a space with an additional \$1,500 to \$2,000 per space with a carport above surface parking.

A recent study of parking utilization rates at transit-oriented residential development (TOD) projects in the southern part of the San Francisco Bay area concluded that the number of spaces provided typically exceeds the demand.² The study, which surveyed 12 TOD projects near Caltrain and Santa Clara Valley Transportation Authority light rail, found that 17 to 39 percent of the parking was not used, an average of 26 percent overall. Based on the study's findings, only about 1.3 spaces are needed per unit in a residential TOD in Santa Clara County and that residential parking demand within a half mile of a rail transit station is less than what current zoning codes require. The study corroborates research by Robert Cervero, who also found that Bay Area TODs are "over-parked".³ According to a 2008 study by Cervero and Arrington, reducing parking ratios from 2.2 to 1.1 resulted in lower construction costs and more housing production as well as higher transit ridership.⁴

Most of the transit-oriented projects that the studies examined are in more urbanized areas and closer to BART. Nevertheless, based on information about some of the affordable housing projects in the County designed by Van Meter Williams Pollack and occupied within the last decade, the City's parking requirements are probably higher than necessary for multi-unit affordable housing development.

- West Rivertown, which has easy access to transit and downtown, is parked at 1.6 to 1 and has additional parking available, as well as extensive on-street parking. Some residents find it convenient to park on the street as their front doors open to the street. The tree-lined streetscape is pleasant and units have porch entries.

² Technical Report, December 2010, <http://bit.ly/gk9Y7p>

³ Cervero, Robert, Arlie Adkins, and Cathleen Sullivan. 2009. *Are TOD Sites Over-Parked?* UCTC Research Paper No. 882. Berkeley, CA: University of California Transportation Center.

⁴ Arrington, G.B. and Robert Cervero, *Effects of TOD on Housing, Parking, and Travel*, Transportation Research Board, Washington, D.C., 2008

- Rivertown Place is parked at 1.6 to 1 and is generally full, but not overflowing. The streetscape is similar although not quite as lush and there are no separated sidewalks in that portion of the neighborhood.
- Baypoint is parked at 1.8 to 2.0 spaces per unit and has sufficient parking with some spaces available.
- Los Medanos is parked at 1.8 to 1 spaces per unit and has additional spaces available.
- Leland Avenue, with parking at 2 spaces per unit is generally full but this is primarily due to the fact that there is no street parking in the entire surrounding area.

The survey shows that the ability to use the reduced parking ratios provided by the State density bonus law is a definite benefit. For most typical tax credit projects, which require that 30 percent of the units have three bedrooms and generally have 40 to 50 percent two-bedroom units with the rest at one bedroom, the parking ratio is approximately at 1.8 spaces a unit with no guest parking.

	<i>Antioch</i>	<i>Pittsburg</i>	<i>Concord</i>	<i>Walnut Creek³</i>	<i>Brentwood</i>
SF Detached	2/unit covered plus 1/unit for guests on-street nearby	2/unit including one covered ¹	2/unit including one covered	2/unit covered	2/unit covered
SF Attached or Duplex	2/unit including one covered plus 1/5 units for guests	2/unit including one covered for duplex	1.5/unit including one covered ²	1/unit for 1 BR; 2/unit including one covered for 2 BR or larger units ¹	2/unit covered for duplex or triplex
Multi-family Studio	1.5/unit including one covered plus 1/5 units for guests	2/unit including one covered	1.5/unit including one covered ²	1.25/unit ⁴	1/unit covered plus 1 public space
One- BR	1.5/unit including one covered plus 1/5 units for guests	2/unit including one covered	1.5/unit including one covered ²	1.5/unit ⁵	1/unit covered plus 1 public space
Two-BR or larger	1.5/unit including one covered plus 1/5 units for guests plus additional .5 for 3 BR or larger units	2.5/unit	2/unit ²	2/unit plus additional .25 for 3 BR or larger units ⁶	1/unit covered plus 1 public space

Senior Housing	Up to .75/unit covered plus guest parking based on project review	Reduction from applicable requirements subject to review	Reduction from applicable requirements subject to review	Determined on project basis by Transportation Administrator	Reduction from applicable requirements subject to use permit and restriction on use to senior housing
Transit-Oriented Development	NA	Reduction subject to review for MF and small-lot SF within .25 miles of mass transit station or facility	NA	1/unit for studio; 1.25/unit for 1 BR; 1.5/unit for 2 BR; 2/unit for 3 BR within .5 mile of BART station	NA
Downtown Development	NA	1.5/unit with reduction available subject to review	NA	NA	NA
<p>Notes:</p> <ol style="list-style-type: none"> 1. Tandem parking allowed for two required spaces. 2. One additional space for every three units for guest parking if primary access is along private drives or public streets on which no parking is allowed or feasible. 3. Reduction in number of spaces, shared parking, or off-site parking may be allowed subject to approval of use permit. 4. 1.1/unit for low-income and 1/unit for very low-income units. 5. 1.35/unit for low-income and 1.15/unit for very low-income units. 6. 1.8/unit for 2 BR and 2/unit for 2+ BR low-income; 1.5/unit for 2 BR and 1.75/unit for 2+ BR for very low-income 					
<p>Source: Dyett & Bhatia, 2011.</p>					

2.3.2 Options

Under the existing regulations parking requirements for affordable housing projects are modified on a case-by-case basis. If the ordinance is amended to create a new district that allows residential development at 20 units per acre by right, projects that include lower income units and are entitled to a density bonus under State law would be entitled to reduced parking by right. Affordable housing development in other districts would still be subject to discretionary review but may also be entitled to reduced parking if the project meets the requirements of the State density bonus law.

Adopting specific reduced parking standards for projects that will be occupied by lower-income households would provide greater certainty for developers and can eliminate the need for discretionary review for projects that would not otherwise require a use permit or other discretionary zoning approval. Developers would probably prefer this approach because it would reduce the time

and cost required to process applications for affordable housing projects. The parking requirement for these units could be reduced across the board to a percent of the standard that would otherwise apply (typically 20 to 25 percent lower) with the possibility of further reductions tied to additional requirements that are intended to ensure that the residents of such projects have a choice of alternatives to driving private automobiles. These could, for example, include providing shuttle or van service to shopping, social services, and transit stations or limiting the areas where parking reductions apply to neighborhoods or districts that are closer to transit or shopping. Parking requirements based on the number of bedrooms penalize smaller units and are more difficult to administer because of the need to determine whether a room that is identified as a den or office will, in fact, be regularly used for sleeping. Within the Rivertown area, the revised ordinance could offer the option of paying an in-lieu fee that would be used to construct a future parking structure. Once the City identifies a site, it could be used to provide additional surface parking for downtown businesses and residents.

In some cases it may be appropriate to hold land in reserve and defer imposition of parking requirements pending monitoring to demonstrate whether projected reductions in trips have materialized. This approach may work on larger sites or where development will be phased but would not benefit developers with projects on smaller or irregularly-shaped infill sites where the cost of providing parking or the building footprint are critical to project feasibility. An alternative for larger sites or phased development would be to allow surface parking areas to be converted to open space or developed based on evidence of reduced automobile ownership and trips.

The Commission considered the following alternatives but, after observing that Antioch's existing parking standards compare favorably with other jurisdictions in Contra Costa County and that few applicants apply for parking variances, recommended that the City not reduce its parking standards and continue to require discretionary review to modify parking requirements.

Option 1: Establish lower parking standards for affordable housing projects that would allow a reduction in parking by-right for projects designed for occupancy by lower-income households or transit-oriented development. Reduced parking standards may be tied to floor area rather than the number of bedrooms. Projects that incorporate other features to reduce trips or are located close to transit corridors or shopping would be entitled to additional specific reductions by right.

Option 2: Establish procedures giving the Planning Director or the Planning Commission authority to modify parking requirements on a discretionary basis when supported by specific information in the record. These modifications could include deferring imposition of standard minimum parking requirements or other reductions that the developer proposes. Approval may be subject to conditions including periodic monitoring of trip reduction measures to verify their effectiveness.

2.4 Development Bonuses and Incentives

In 2004, the State enacted significant changes to the state's density bonus law, which went into effect on January 1, 2005. The legislation (SB 1818 chaptered as Government Code Section 65915-65918) required cities and counties to overhaul their ordinances to bring them into conformance with new state mandates, which reduced the proportion of affordable units developers had to provide to be entitled to additional density and other incentives and concessions necessary to make units affordable. Antioch has not yet revised its ordinance to reflect these changes.

The previous law allowed for a 25 % density bonus when housing projects provided from 10 to 20 % of the units affordable (depending upon the level of affordability). In addition, cities and counties needed to provide at least one "concession" such as financial assistance or a reduction in development standards. SB 1818 significantly reduced the amount of units that a developer had to provide in order to receive a density bonus and required cities and counties to provide between one to three concessions, depending upon the percentage of affordable units. It also imposed a new land donation rule, and statewide parking standards.

- If at least 5% of the units are affordable to Very Low income households or 10% of the units are affordable to Low income households, then the project is eligible for a 20% density bonus.
- If 10% of condominium or planned development units are affordable to Moderate income households, then the project is eligible to receive a 5% density bonus.

In addition, the law established a sliding scale that requires:

- an additional 2.5% density bonus for each additional increase of 1% Very Low income units above the initial 5% threshold;
- a density increase of 1.5% for each additional 1% increase in Low income units above the initial 10% threshold; and
- a 1% density increase for each 1% increase in Moderate income units above the initial 10% threshold.

These bonuses reach a maximum density bonus of 35% when a project provides 11% Very Low income units, 20% Low-income units, or 40% Moderate-income units.

The law also requires cities and counties to grant additional "concessions or incentives" depending on the percentage of affordable units provided. "Concessions and incentives" may include reductions in zoning standards, other development standards, design requirements, mixed use zoning, and any other inducement that would reduce costs for the developer. Any project that meets the minimum criteria for a density bonus is entitled to one concession from the local government agency, increasing up to a maximum of three concessions depending upon the amount of affordable housing provided. For example:

- For projects that provide either 5% of the units affordable to Very Low income households, 10% of the units affordable to Lower Income households, or 25% Moderate Income condominiums, then the developer is entitled to one concession.

- When the number of affordable units is increased to 10% Very Low income units, 20% Lower income units, or 20% Moderate-income units, then the developer is entitled to two concessions.
- When the number of affordable units is increased to 15% Very Low income, 30% Lower income, or 30% Moderate-income units, then the number of concessions is increased to three.

The State density bonus law does not require that a city or county exempt affordable housing projects from design review. The Government Code does, however, prohibit a local agency from imposing any design review conditions that would demonstrably make a project economically infeasible.

2.4.1 Issues

Section 65915 (l) defines “concession or incentive” as a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission. Examples include a reduction in setback and square footage requirements and reduction in parking ratios. Approval of mixed-use zoning is a “concession” if the non-residential use is compatible with the housing project and the existing or planned development in the area. In addition, the developer may propose other regulatory incentives or concessions that result in “identifiable, financially sufficient, and actual cost reductions”

State law would allow Antioch to request that a developer choose a concession or incentive from a list of acceptable concessions; although, under certain circumstances, a developer may request and be entitled to other incentives not on the City’s preferred list. The State law does allow the City to deny a developer’s request for additional incentives or concessions if it can find, based on information in the record, that the proposed waiver or modification is not necessary to make the affordable units economically feasible. Even though the Government Code establishes the rules for making such determinations, including such a procedure in its own zoning ordinance would allow the City to better express its priorities and clarify its expectations for projects that are eligible for density bonuses.

The current zoning ordinance includes a Senior Housing Overlay District that provides an incentive to developers of senior housing by establishing a higher base density with additional density for projects that are affordable to low and very low-income seniors and/or located close to services. The provisions of Article 34 can allow developers to build at densities as high as 70 percent over the base density if their projects meet all of the criteria. Although the State density bonus requirements supersede local ordinances, as the Housing Element proposes and to provide clear direction to applicants and neighbors, the City needs to revise Article 35, the Non-Senior Housing Density Bonus Program, which the City adopted in 1994, to comply with the current requirements of the State density bonus law.

In addition to proposing an update to the City’s density bonus regulations to bring them into line with Government Code Section 65915, the Housing Element proposes that the City offer additional incentives to encourage the production of affordable housing in the Rivertown Focus Area (Program 2.5.1, p. 5-11). Most cities find it relatively easy to identify the benefits they want to obtain from an incentive program; the hard part is limiting the list to those features that will best promote the city’s key priorities and making sure that the bonuses are economically viable. In order for incentives to work, they need to be grounded in local real estate economics – i.e., they need to really encourage developers to build what is wanted. Incentives should be based on economic analysis that measures the value of added space to builders against the cost of the amenity they are being encouraged to

build. If the incentive is too small it will be ignored; if the value of the additional space far exceeds the cost of the amenity, many builders may choose one very generous bonus and ignore the others.

Nowadays, there is considerable variation among the types of incentives that cities offer and the range of approaches they use to deliver them. Increasingly, however, ordinances reflect the belief that new development should provide benefits that are proportionate to the intensity and impact of a project. This approach is intended to “recapture” the value of a development entitlement in the form of benefits to the community. For example, some cities have adopted policies that require new buildings to deliver public benefits, which are proportional to building height or development intensity. Another approach is using a tiered system that stipulates the types of benefits that must be provided to exceed base heights. Antioch’s Senior Housing Overlay regulations implement a similar notion by tying densities to the level of affordability and proximity to services.

The procedures the City uses to administer the incentive program will also be critical. While some cities require an individual hearing before granting any incentive, the better practice is to agree on the bonus conditions ahead of time and then grant the bonus without discretionary (and sometimes time consuming and controversial) review. Investors need the predictability of knowing that if they offer an amenity that meets the city’s standards they can budget on the additional height or space and don’t run the risk of having that reduced or denied in a discretionary hearing.

2.4.2 Options

At a minimum, the City needs to amend Article 35, the Non-Senior Housing Density Bonus Program to comply with the current requirements of Government Code Section 65915. Instead of just incorporating the provisions that the State law specifies, the City could use this opportunity to establish regulations and procedures to clarify how it implements the State mandate. This will allow the City to tailor the requirements to better respond to local interests as long as the City ordinance conforms to State law. Some jurisdictions, for example, have established lists of preferred concessions and incentives.

The Housing Element also proposes that the City adopt incentives that go beyond the State requirements to promote residential development in the Rivertown Focus Area such as:

- Providing the higher than minimum required density bonuses available through the Senior Housing Overlay District throughout the Rivertown Focus Area;
- Modifying development standards for the Rivertown Focus Area to permit residential development within mixed-use projects at higher densities than might otherwise be achieved within “conventional” multi-family developments by regulating development intensity for the mixed-use projects by floor area ratio, rather than by calculating dwelling units per acre, and modifying parking standards for residential dwelling units developed on the upper floors of commercial buildings to permit shared parking and off-site parking in municipal parking lots; and
- Expediting the development review process to minimize carrying costs for lands being developed with affordable housing

Although the Housing Element focused on incentives for Downtown development, the zoning update provides an opportunity to determine whether an incentive program could help to obtain broader

community benefits. The Housing Element and discussions with City officials suggest that the benefits the community should receive in exchange for providing incentives that exceed those to which developers may be entitled under State law should include:

- More retail activities in the Downtown including a grocery store;
- Improvements to the streetscape to make the area more attractive to pedestrians including upgraded lighting, and maintenance;
- Parks, including pocket parks on site that would be privately owned and maintained and City parks that would be built by a developer and then deeded to the City;
- Public art (although there was some sentiment toward adopting an ordinance requiring that developers pay a fixed percent of project value for public art);
- Building projects close to transit (especially eBART) or providing improved access to public transportation;
- Mixed-use development including the type of retail commercial goods and services that would enhance commercial areas and improve City revenues;
- Community facilities, including a library, childcare, and recreation center/facilities (such as an indoor sports facility that would be open to the public and/or rented for City use) or payment of an in-lieu fee that the City would use to develop such facilities are preferable to facilities included within a project except for childcare and recreation space, which should be required for all large residential developments; and
- Traffic safety and traffic reduction improvements in project area.

For an incentive program to work, especially if the City wants to receive additional community benefits such as those City officials identified, the City needs to offer incentives and concessions that are equivalent to those available under the State density bonus law for market rate projects and exceed those to which projects would be otherwise entitled for developments that include affordable units. Implementing some proposals that are discussed in other parts of this report, such as allowing more development by right and modifying standards that are an obstacle to development on infill sites, would be an incentive to desired development. Foremost among these would be creating a district where multi-family development at densities of 20 units per acre would be allowed without requiring a conditional use permit. This would significantly expedite the development review process for affordable housing projects and also reduce the time that Staff has to spend processing applications that require a Conditional Use Permit as well as design review under the current ordinance. As provided for by the State density bonus law, most, if not all, projects that include affordable units would also be entitled to density bonuses as high as 27 units per acre (i.e. 135 percent of the base density) plus additional concessions needed to make projects feasible.

The program should be designed to offer the concessions that affordable housing developers with project experience in Contra Costa County have found most valuable including:

- Additional density above the 35 percent to which projects are entitled under State law;
- Exceptions to height limits to allow up to three stories and 35 feet in areas zoned for two-story structures;

- Modification to setback requirements especially in the front yard but sometimes to rear setbacks depending on site shape and conditions;
- Reduction in parking requirements;
- Modification to lot coverage and/or open space requirements depending on the metric that the City uses.

In addition to amending Articles 34 and 35 of the Zoning Ordinance to be consistent with the State's density bonus law (Government Code 65915), the choices available to the City include:

Option 1: Amend Articles 34 and 35 of the Zoning Ordinance to include a priority list of concessions and incentives that the City deems acceptable and procedures for implementing the density bonus law including process for deciding whether to grant an incentive that is not on the list and for determining whether any incentive is necessary in addition to the basic density bonus.

Option 2: Establish a new incentive program that includes one or more of the following features:

- Expand the existing Senior Housing Overlay District to include housing projects that exceed the affordability thresholds in Government Code 65915 and meet other criteria, which may include location in specific areas of the City, such as the Rivertown area, and incorporation of specific amenities including, but not limited to those in existing Article 34;
- In addition to additional density, allow height increases, reduced parking, and other concessions by right and without discretionary review to projects that exceed the State affordability thresholds and incorporate specific amenities such as a minimum amount of retail floor area.

The Commission recommends that Articles 34 and 35 be amended to clarify and augment the City's procedures for implementing the State density bonus law but did not propose that the City establish any new incentive programs. The Commission also recommends that any provisions intended to provide additional incentives be subject to discretionary review.

2.5 Emergency, Transitional and Supportive Housing

SB 2 amended the Government Code to require cities and counties to explicitly recognize emergency, transitional, and supportive housing in their zoning regulations and to adopt provisions intended to remove obstacles to providing emergency shelters, transitional housing for those who were formerly homeless, and supportive housing accommodating persons with disabilities. The State Department of Housing and Community Development (HCD) has defined emergency shelter, transitional housing, and supportive housing as follows:

- Emergency Shelters (Health and Safety Code Section 50801(e): “Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
- Transitional Housing (Health and Safety Code Section 50675.2)(h): “Transitional Housing” and “transitional housing development” means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted units to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. Recipients may be individuals or families who are at immediate risk of becoming homeless (e.g. have received an eviction notice) or are transitioning from being homeless to permanent housing.
- Supportive Housing (Health and Safety Code 50675.14(b): Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. “Target population” means low-income adults who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

Government Code Section 65583 requires jurisdictions with an unmet need for emergency shelters to identify a zone or zones where at least one year-round emergency shelter will be allowed as a permitted use without a conditional use permit or other discretionary permit. (The code may require discretionary design review as long as the review does not make the development of a facility infeasible.) The identified zones must have sufficient capacity to accommodate the shelter need, and at a minimum provide capacity for at least one year-round shelter. As amended by SB 2, State law allows jurisdictions to require shelters to conform to the same development and management standards that are applicable to other residential or commercial uses within the zone. It also allows cities to impose objective standards for shelter operation covering issues such as the maximum number of beds, parking requirements, hours of operation, management requirements, location of waiting and intake areas, lighting, security, etc.

State law does not require jurisdictions to quantify the unmet need for transitional or supportive housing. It does, however, require that local agencies revise their zoning ordinances as necessary to

ensure that these facilities be treated as residential uses and subject to the same requirements as comparable residential uses in the same zoning district.

Transitional housing facilities may be configured as apartments, individual shared units, or dormitory facilities. State law requires that local ordinances regulate transitional facilities in the same manner as comparable apartments or group living accommodations (e.g. convents, school dormitories, etc.). Facilities may be accessory to a public or quasi-public use such as a social service agency, religious assembly or institutional use, or other facility operated by a nonprofit organization. In all cases, however, occupancy is for a specific term that must be more than six months. Transitional and supportive housing programs typically offer or require participation in support services such as counseling, daycare, job counseling or other services that help residents achieve self-sufficiency.

2.5.1 Emergency and Transitional Housing

In 2007, the Contra Costa Inter-Jurisdictional Council on Homelessness (CCICH) estimated that there were 1,749 homeless persons in Contra Costa County, of which 144, representing approximately 8.2 percent of the County's total homeless population, lived in Antioch. Based on preliminary results from the 2009 Homeless Count and Survey, there were 1,958 sheltered homeless persons in the County and the need in Antioch has increased from 90 to about 124 shelter beds.⁵

There is one emergency shelter and one transitional shelter in Antioch. The East County Shelter is an emergency shelter, which provides 20 beds for single homeless men and women year-round. Shelter Inc. operates the Lyle Morris Family Center (formerly East County Transitional Housing), which has 19 units that provide 70 year-round family beds. Families may stay in the facility for up to 24 months.

Antioch's current zoning ordinance allows emergency shelters in the Light Industrial (M-1) and Heavy Industrial (M-2) District with a use permit. To meet the requirements of Government Code Section 65583 (a)(4), the Housing Element proposed to create a zoning overlay district in which emergency shelters can be located without discretionary approvals and identified three parcels that are now zoned Mixed Commercial-Residential (MCR) to include in this zone. The Housing Element also proposed to take steps to accommodate transitional housing in conjunction with the emergency shelter and also includes a program for amending the Zoning Ordinance to include provisions regarding small, one-room units (SRO residences) that could be occupied by single individuals or couples. This type of housing can help formerly homeless individuals and couples to make the transition to permanent housing but could also be suitable for other very low-income individuals including students and entry-level workers.

⁵ The Homeless Count included all individuals who meet the definition of unsheltered or sheltered as homeless. Unsheltered is defined as any person that resides in a place not mean for human habitation, such as a car, park, sidewalk, open space or on the street. The "unsheltered" population includes individuals living in a home lacking electricity or plumbing, in jail or an institution who would not a have a permanent address after release, and others who identified themselves as homeless on the day of the count. Sheltered refers to individuals residing in an emergency shelter or transitional housing program for homeless persons who originally came from the streets or emergency shelter.

2.5.2 Issues

The Housing Element proposed to establish an overlay district within which shelters can be located without a use permit or other discretionary approval and identified three vacant City-owned properties that could be developed for this use. The City has already had discussions with the Bay Area Rescue Mission about developing a transitional housing facility on one of the three sites, a 4.8-acre parcel on the south side of Delta Fair Boulevard at Century Boulevard. The two other sites are smaller lots on the northwest and northeast corners of the same intersection.

In February 2010, the Planning Commission proposed to rezone the 4.8-acre parcel for exclusively residential use. This designation would allow development of transitional or supportive housing but not an emergency shelter, which is typically classified as a public or community service use. The Commission did not include a zoning recommendation for either of the two smaller parcels.

While all three candidate sites are available and suitable from an environmental standpoint, their location more than a mile from Somersville Road may make it difficult for residents who have to rely on transit to reach social services and other programs. For this reason, it may make sense to expand the overlay district to include some sites in the Light Industrial (M-1) District, where the City of Antioch Zoning Code now allows homeless shelters in the Light Industrial (M-1) District and Heavy Industrial (M-2) District zones subject to approval of a use permit. The ordinance does not include any additional standards or requirements applicable to this use.

To determine how much land to include within the proposed overlay district, the Housing Element used a density of 20 shelter beds per acre (Housing Element, p. 4-9). This ratio is significantly lower than the standard most agencies use to plan for emergency shelters, which averages about 200 square feet of site area per person and is equivalent to more than 215 beds per acre.⁶

In addition to having sufficient capacity to accommodate the need for emergency housing, the State requires that the designated zones meet other criteria including:

- Availability of sites for new development or buildings suitable for conversion;
- Suitability in light of physical and environmental characteristics such as seismic hazards, toxic contamination, noise, and air quality;
- Proximity to transit, job centers, social services, and other programs to support clients.

To meet State requirements, in addition to revising the ordinance to allow development of facilities that have the capacity to accommodate the projected unmet need of 124 beds, State law allows cities to adopt objective and predictable standards for regulating homeless shelters so long as they do not have the effect of making it infeasible to establish shelters within the jurisdiction. The standards may deal with the use of property but may not address the characteristics of potential occupants. In addition to making shelters subject to the same measurable development standards that apply to

⁶ *Zoning in the Wake of SB2: Best Practices for Emergency, Transitional and Supportive Housing*, May 2010, 21 Elements, San Mateo Countywide Housing Element Update Kit, pp. 5-8. Download at <http://www.21elements.com/View-document-details/442-Zoning-for-Emergency-Shelters-Best-Practices.html>

other uses in the district (e.g. height, setbacks, maximum floor area, etc.), local ordinances may adopt standards regulating issues such as:

- The maximum number of beds or persons permitted to be served nightly by the facility (so long as the limit does not make it economically infeasible to operate a shelter);
- Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone;
- The size and location of exterior and interior on-site waiting and client intake areas;
- The provision of on-site management;
- The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart;
- The length of stay;
- Lighting; and
- Security during hours that the emergency shelter is in operation.

If shelters are only allowed in industrial areas, these standards will usually be more lenient than requirements applicable to facilities in residential or commercial districts. The ordinance may not require public notice of shelter proposals unless it also requires public notice for other non-discretionary actions.⁷

Because State law supersedes local zoning regulations, even though the existing Antioch code makes no reference to transitional housing this type of residential use is now permitted in any district where multi-unit facilities are allowed subject to the same requirements applicable to comparable facilities. To avoid confusion about municipal requirements and avoid potential conflicts with State law, some jurisdictions have amended their codes to include a definition of “transitional housing” and specifically identify this type of accommodation as a permitted use in those districts where multi-unit facilities are allowed subject to the same requirements applicable to other types of multi-unit development. This means that transitional housing would require a conditional use permit in those districts where multi-family housing is subject to a use permit and allowed by right in the district or districts where it is permitted by right.

The following definition of transitional housing refers to the State law but includes other information that will facilitate administration:

Transitional Housing means buildings configured as rental housing developments that provide housing for individuals or families who are at immediate risk of becoming homeless (e.g. have received an eviction notice) or are transitioning from being homeless to permanent housing for a period of at least six months as defined by Health and Safety Code Section 50675.2)(h). Transitional housing units include but are not limited to apartments, individual

⁷ Memorandum from Cathy E. Cresswell, Deputy Director, California Department of Housing and Community Development, May 7, 2008, p. 10

shared units, or dormitory facilities that may be accessory to a public or quasi-public use such as a social service agency, religious assembly or institutional use, or other facility operated by a nonprofit organization and may offer or require participation in support services such as counseling, daycare, job counseling or other services that help residents achieve self-sufficiency.

Some jurisdictions have amended their zoning ordinances to include use types as well as definitions. In contrast to definitions, which are an alphabetical listing of terms used throughout the ordinance with their meaning, use classifications group together similar uses that are regulated in the same manner. This approach avoids the need to list each and every individual type of use. Including transitional housing as a type of Multi-Family use will make it easier to comply with the State requirement for equal treatment. These classifications also provide more flexibility than use lists, particularly in commercial areas where a broad range of uses is permitted. By not listing uses specifically, but instead identifying use types, it is relatively easy to insert a new type of use into the appropriate classification by administrative determination and regulate accordingly.

An example of a use classification description for Group Residential that refers to transitional housing would be:

Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for semi-transient or permanent residents on a weekly or monthly basis. This classification includes rooming and boarding houses, dormitories, private residential clubs, residential hotels intended for long-term occupancy (30 days or more), and transitional housing offering shared living quarters or on-site services but excludes Hotels and Motels and Residential Care.

2.5.3 Options

Based on an estimated density of 200 shelter beds per acre, the three sites, which include a total of 6.39 acres, could accommodate both the 124 emergency shelter beds the City needs to meet the State requirement as well as 100 units of transitional housing and associated services. The three parcels, which include a total of 6.4 acres, are now zoned Mixed Residential/Commercial (MCR). The current zoning ordinance describes the MCR zone as a district that is compatible with transit-oriented development and other areas designated for mixed-use development.

In order to provide homeless service agencies with sufficient flexibility to meet the need for emergency shelter while retaining the larger site on Delta Fair Boulevard to be developed for transitional housing without a time limit on occupancy, the City could consider expanding the overlay district to include one or more parcels in the Light Industrial (M-1) zone, where the current code requires a conditional use permit for such use. The M-1 sites would have to meet specific criteria intended to minimize conflict with surrounding uses and to allow facilities to include a range of support services to assist shelter residents. By adopting standards and requirements applicable to emergency shelters as provided for by State law the City would help to further ensure their compatibility.

The Planning Commission considered the following options and recommends them all for Council approval with a modification specifying that the overlay district include the City-owned parcels on the north side of Delta Fair Boulevard and a site or sites in the M-1 (Light Industrial) zone that

contain approximately one half acre or more to accommodate the balance of the need for emergency housing.

Option 1: Establish an overlay district where an emergency shelter would be allowed by right that includes the City-owned parcels on the northeast and northwest corners of Delta Fair and Century Boulevard and one or more additional parcels in the M-1 (Light Industrial) zone.

- Continue to allow emergency shelters with a conditional use permit elsewhere in the M-1 and M-2 zones.
- Rezone the 4.8-acre parcel on the south side of Delta Fair for residential use with a minimum density of 30 units per acre subject to approval of a conditional use permit as Section 2.1 proposes.

Option 2: Amend Section 9-5.203 to include a definition of “transitional housing” that cross-references the definition in the California Health and Safety Code. The Table of Land Use Regulations (Section 9-5.3803) could also list transitional housing as a residential use with reference to the new definition.

Option 3: Amend the zoning ordinance to define Single Room Occupancy (SRO) units and to regulate SRO facilities as a form of multi-family housing subject to standards and requirements applicable to comparable multi-unit residential facilities. Allow single-room occupancy hotels in the Rivertown High Density Residential and Transit-Oriented Residential Districts subject to specific limitations.

2.5.4 Supportive Housing

2.5.5 Issues

The Housing Element (p. 5-14) proposes to, “Amend the Zoning Code to allow transitional/supportive housing as a residential use, subject only to those requirements of other residential uses in the same zone.” (p. 5-14) The 2010 Housing Element uses the term “transitional/supportive housing” without recognizing the distinction between these housing types. In contrast to transitional housing, which is semi-transient by definition and may be occupied by any individual who is in transition from homelessness, supportive housing is permanent housing for individuals with disabilities.

In addition to establishing fairly detailed requirements regarding the provision and regulation of emergency housing (Government Code Section 65583 (a)(4), SB2 re-enforced existing requirements to remove constraints to providing housing for persons with disabilities including accommodations with supportive services. The provisions applicable to transitional and supportive housing and the associated obligations imposed on local agencies are somewhat less detailed than the requirements regarding emergency housing. According to a memorandum that the State Department of Housing and Community Development issued on May 7, 2008, the legislation defines supportive housing to have the same meaning as Section 50675.15 of the Health and Safety Code. More specifically, supportive housing means permanent housing that is occupied by low-income adults who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health

conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act that is linked to on- or off-site services that help the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. The population targeted by supportive housing programs may include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

In addition to requiring the housing element to identify constraints to meeting the need for supportive housing, the Government Code stipulates that supportive, as well as transitional housing, must be considered a residential use subject only to the restrictions applicable to dwellings of the same type in the same zone. Because disabilities often contribute to homelessness, SB 2 allows jurisdictions to reduce their emergency shelter need by the number of vacant or funded supportive housing units that will be provided pursuant to an adopted 10-year plan for ending chronic homelessness.

The current zoning ordinance identifies residential care facilities, one of the most common forms of supportive housing, as a residential use but does not include a definition for either residential care facility or supportive housing. To comply with State and Federal law, residential care facilities serving six or fewer people (not including the operator or staff who provide services that residents need to sustain daily life) must be treated as a single-family use. Licensed facilities that serve seven or more residents may be subject to a use permit but any standard requirements or conditions imposed on such facilities must be comparable to those imposed on other group residential facilities such as convents and fraternity houses.

“Shared supportive housing” housing—tenants sharing a single family home, duplex, or triplex, each with their own bedroom and a right to choose other housemates—is becoming more popular in housing homeless people with disabilities, as funding sources, like the Mental Health Services Act Housing Program and the Neighborhood Stabilization Program, finance purchase and rehabilitation of abandoned properties. State law exempts supportive housing from licensing requirements (Health and Safety Code Sec. 1504.5). A prohibition of shared supportive housing in low-density zones or regulations that define facilities where individual members have individual leases as boarding houses, regardless of the number of residents, may also be in violation of Federal law when applied to shared supportive housing. *Disability Advocates, Inc. v. Paterson*, 2010 WL 933750 (E.D.N.Y. 2009).

Unlicensed supportive housing facilities include a type of accommodation commonly called a “clean and sober” house. All sober living homes provide a drug and alcohol free environment for those recovering from addiction. Facilities that provide detoxification, group sessions, individual sessions, educational sessions, or alcoholism or drug abuse recovery or treatment planning must obtain a license through the California Department of Alcohol and Drug Programs. (Cal. Health & Safety Code § 11834.02) If a licensed facility has six or fewer non-staff occupants, a municipality must treat it as a permitted use wherever the municipality allows single-family homes. Moreover, these facilities may not be subject to business taxes, use permit fees, conditional use permits, zoning variances, or other zoning clearances not required of other single-family homes in the same zone. Cal. Health & Safety Code § 11834.22 & 11834.23. Cities have somewhat greater latitude to regulate both large and small unlicensed facilities as long as they heed the requirements of federal and State laws that protect housing opportunities for persons with disabilities as well as the right of a group of unrelated persons to live together as a single household under the California Constitution.

In a 2003 opinion regarding an ordinance adopted by the City of Lompoc, then Attorney General Brown stated that communities could prohibit or regulate boarding houses and similar facilities in single-family zones in order to preserve the residential character of the neighborhood as long as the regulation is based on the use and not the characteristics of the occupants. (Cal. Op. Atty. Gen. 01-402) In a related opinion from 2007, the Attorney General reaffirmed that Section 11834.23 forbids the use of zoning or other regulatory powers to treat small treatment facilities differently from other residential dwellings. (Cal. Op. Atty. Gen. 07-601)

The regulation of unlicensed facilities, especially those with six or fewer occupants, is also subject to challenge if it conflicts with the California Supreme Court's decision in *Adamson v. Santa Barbara*, 27 Cal. 3d 123, 134 (1980), which held that the State constitution's protection of the right to privacy prohibits local agencies from treating a group of unrelated persons living together as different from persons related by blood, marriage, or adoption living together. This means that any regulation of unlicensed facilities needs to be based on a carefully-drawn definition of the term "household" as well as other provisions that regarding the use of the property.

Los Angeles, San Rafael, and Lompoc are among the cities that have revised their zoning regulations to make it easier to regulate unlicensed facilities and licensed facilities with seven or more occupants. In addition to including a definition of "household" that requires a single lease or rental agreement, these jurisdictions are adopting regulations that impose similar restrictions on all types of group living or multi-family facilities. Where regulations restrict the behavior of occupants (e.g. smoking, drinking, or loud noise in common areas), they should apply to all facilities included in a use class (e.g. banning smoking in common areas and/or within X feet of any multi-family and/or group living residential facility).

Antioch's existing zoning ordinance does not include any regulations that specifically apply to unlicensed supportive housing including facilities for persons who are disabled due to substance abuse problems. As defined in the ordinance, the term Family Care Home only applies to State-authorized, certified, or licensed facilities:

FAMILY CARE HOME. A state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons or dependent and neglected children providing care on a 24 hour-a-day basis. Includes elderly group homes and adult group homes as defined by the State of California for ambulatory aged furnishing only general assistance or services, having from one to six guests, meeting all state and county licensing requirements, and being constructed to the minimum construction and safety standards prescribed by state and local laws.

Moreover, the current definition of Boarding and Rooming House also appears inapplicable to some unlicensed facilities because it excludes those with more than two guest rooms.

BOARDING AND ROOMING HOUSE. A dwelling, including on-site accessory structures, containing a single dwelling unit in which the house owner or manager resides and containing not more than two guest rooms in which, for compensation, long-term lodging with or without meals is provided. If more than two such guest rooms exist, then it shall be considered a small or large family care home.

An unlicensed facility that provides beds for six or more persons for compensation would, therefore, probably have to be classified as a hotel, which the Zoning Ordinance defines as "Any building, or

portion thereof, containing six or more guest rooms which are occupied or are intended to be occupied by six or more individuals for compensation, whether the compensation shall be paid directly or indirectly. “ The ordinance does not allow hotels in any residential district. Classifying a facility that provides supportive services to the disabled as a hotel might conflict with the requirement to treat supportive housing as a residential use. As mentioned above, regardless of whether the residents are mentally disabled or due to substance abuse, they may be protected under federal and State fair housing statutes.

Table 2.5: Current Zoning Regulations for Residential and Other Accommodations

	R E R R	R 4 R 6	R 1 0	R- 20	PBC	C- 0	C- 1	C-2	C- 3	MC R	W F	M- 1	M- 2	H	RTC	RTR -10	RTR -20
RESIDENTIAL USES																	
Senior Group Housing	U	U	U	U						U				U	U	U	U
Family Care Home	P	P	P	P						U						P	P
Fraternity-Sorority/Dormitory	U	U	U	U						U							
Multi-Family			U	U						U				U	U		U
Residential Care Facility				U		U	U			U				U		U	U
Room and Boarding House	U	U	P	P						U						U	P
COMMERCIAL USES																	
Bed and Breakfast	U	U								U	U				U	U	
Hotel-Motel					U ²	U		P	P	P	U	U ²		U	U		
PUBLIC/SEMI-PUBLIC USES																	
Clubs and Lodges		U	U	U	U	U	U	U	U	U	U			U	U		
Homeless Shelter												U	U				

NOTES

1. Use may be permitted as an ancillary use if it is incidental to an otherwise permitted or conditionally permitted use within this zoning district.
2. May be located only on sites adjacent to freeway interchanges.

As Table 2.5 shows, the current ordinance doesn't consistently regulate or list all types of residential accommodations. State-regulated Family Care Homes with six or fewer residents are permitted by right in lower-density residential districts but facilities with seven or more appear to be excluded

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because the term Residential Care Facility only applies to temporary facilities that provide 24-hour medical supervision or accommodations for persons age 55 or older. Senior Group Housing and Fraternity-Sorority Dormitories are allowed in lower-density residential districts subject to a use permit but Residential Care Facilities (as defined by the ordinance) are only allowed in higher density districts. Multi-family housing can be built in the R-10, R-20, and MCR districts with a use permit but Residential Care facilities (as defined) are not permitted in either the R-10 (Medium Density Residential) or RTC (Rivertown Retail) districts where multi-family units are allowed.

2.5.6 Options

State requirements apply regardless of whether a local ordinance identifies care and supportive facilities as residential uses. Nevertheless, identifying such facilities as permitted uses subject to the same requirements applicable to single-family or comparable multi-family units will help to avoid confusion for both operators and neighbors. Amending the zoning ordinance to define and classify different types of supportive housing types and identify the districts where they are permitted would not only help to ensure that the City complies with applicable State and federal requirements but also help to promote supportive projects that are a good fit with the types of development in the surrounding area. In addition to making it easier to distinguish different types of facilities, revised definitions will also provide a basis for classifying and categorizing facilities that can be regulated in the same manner. This will help to ensure that regulations are based on the type of development rather than personal characteristic or disabilities of their residents.

To the extent permitted by State and federal fair housing laws, revised regulations could include:

- Identifying the districts where facility types are allowed;
- Specifying the type of approval required to establish facilities;
- Establishing performance requirements applicable to different development types.

State and Federal statutory and case law prohibit zoning regulations that discriminate against housing arrangements for persons with disabilities and also require that cities establish provisions that allow modification of regulations when necessary to ensure that disabled persons have equal access to housing. Cities may, however, establish development and performance standards that apply to facilities that are categorized according to the type of development. Cities may not adopt regulations that distinguish facilities according to the characteristics of occupants but they may enact ordinances that apply to all of the facilities within a use category. Such requirements could include regulations intended to restrict or prohibit types of behavior, such as loitering, which may be the source of some complaints. They could also include provisions that impose standards such as requirements for employee parking requirements, open space, security or others that apply regardless of whether residents are disabled.

The Planning Commission recommends that the Ordinance be amended to incorporate all of the following options, which will bring the City into compliance with State and federal law while improving the City's ability to regulate such uses to the extent allowed by applicable statutes.

Option 1: Revise the zoning ordinance to define and classify a range of supportive housing types and revise use regulations based on the development and operation characteristics of different uses.

A. Revised definitions could include the following:

- **Alcoholism or Drug Abuse Recovery or Treatment Facility.** A facility approved and licensed by the State that provides 24-hour residential nonmedical services including alcohol, drug, or alcohol and drug recovery treatment or detoxification services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse as defined by Section 1502 of the California Health and Safety Code.
- **Boarding or Rooming House.** A single-unit dwelling where lodging is provided to individuals with or without meals for monetary or non-monetary consideration under two or more written or oral agreements or leases for periods of at least 30 days. Excludes licensed alcoholism or drug abuse recovery treatment facility, residential care facilities, and foster care homes.
- **Convalescent and Extended Care.** A facility providing long-term nursing, dietary, and other medical services to convalescents or invalids in an institutional setting but not providing surgery or primary treatment such as are customarily provided in a hospital. These facilities are places or institutions that provide medical treatment and bed care or chronic care of persons who by reason of age, illness or physical infirmity are unable to properly care for themselves. No services are provided to nonresidents. Convalescent hospitals include nursing homes and rest homes. They do not include general or specialized hospitals or residential care facilities.
- **Disability.** A physical or mental impairment that substantially limits one or more of the major life activities of individuals, and there is a record of such an impairment or the individual is regarded as having such an impairment. It is the intent of this definition to substantially comply with the term "disability" as defined by the Federal Americans with Disabilities Act of 1990, as may be amended from time to time.
- **Household.** One or more persons, whether or not related by blood, marriage or adoption, living together in a single dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities with common access to and common use of all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit and share responsibilities such as meals, chores, expenses, and maintenance of the premises according to a household plan or similar agreement. If all or part of the dwelling unit is rented, lessees jointly occupy the unit under a single written or oral agreement, whether for monetary or non-monetary consideration. Excludes larger institutional group living situations such as dormitories, fraternities, sororities, monasteries, convents, and commercial group living arrangements such as congregate housing, boardinghouses, and lodging houses.
- **Family Foster Care Home.** The occupancy of a single-unit by six or fewer foster children living with foster parents, whose care they have been placed, and other family members.
- **Hospice.** A facility that provides 24-hour non-medical care for six or fewer terminally ill persons.
- **Hospital.** An institutional land use consisting of a facility licensed by the State Department of Public Health for the provision of clinical and temporary or emergency service for human patients in need of medical, obstetrical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services, including inpatient, outpatient, and overnight care.
- **Nursing Home.** An establishment which provides twenty-four (24) hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing

facility by the California State Department of Health Services, including but not limited to, rest homes and convalescent hospitals, but not Community Care Facilities, Senior Congregate Housing or Hospitals as defined in this Chapter.

- **Residential Care Facility.** A single dwelling or multi-unit dwelling licensed or supervised by a Federal, State, or local health/welfare agency that provides 24-hour non-medical care of unrelated persons who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. This use includes Residential Care Facilities for the Elderly, Residential Care facilities for the chronically ill including persons with AIDS or HIV disease, alcoholism or drug abuse recovery or treatment facilities, group homes for children, but not medical care institutions, skilled nursing facilities, and family day care homes.
- **Residential Care Facility for the Elderly.** A State-licensed housing arrangement chosen voluntarily by persons 60 years of age or over or their authorized representative where varying levels and intensities of care and supervision, protective supervision, personal care or health-related services are provided, based upon residents' varying needs as defined in Chapter 3.2 of the California Health and Safety Code, Section 1569 et seq. A Residential Care Facility for the Elderly may house residents less than 60 years of age and provide related services pursuant to State law.
- **Residential Care Facility, Small.** Use of a single-family dwelling for the purpose of providing 24-hour-a-day, non-medical residential living accommodations for six or fewer individuals, where the duration of stay is determined, in whole or in part, by the individual residents' participation in group or individual activities, such as counseling, recovery planning, and medical or therapeutic assistance. Excludes family day care, foster care, or any medical services, including nursing services, beyond that required by the residents of the facility for sustaining the activities of daily living.
- **Supportive Housing.** A residential facility for permanent residents who live independently and have access to various voluntary support services, such as health, mental health, education and employment/training services. This classification does not include Nursing Facilities or Residential Care Facilities. Services may be provided on-site and/or off-site. If support services are also offered on-site to off-site residents, the support services component will be classified and regulated as hospitals and clinics or other appropriate classification. Supportive housing may be provided in a multi-unit structure or shared living quarters.
- **Transitional Housing.** Any dwelling unit or a group living accommodation designed or operated as temporary living quarters or residence for homeless persons or victims of abuse. Such housing includes, but is not limited to, shelters for the homeless, women's shelters and refuges for battered persons. Transitional housing does not include community reentry centers or half-way housing for federal or State inmates nearing release and does not include any facility licensed as a community care facility by the California State Department of Social Services (SDSS) or defined as such in this chapter.

B. Review and amend use regulations to identify the districts in which facility types are allowed and to specify the type of approval required. To ensure compliance with State and federal fair housing law and provide equal access to residential opportunities for persons with disabilities, the following regulations would allow Residential Care Facilities in any district where Multi-Family

housing is allowed. Under the proposed scheme unlicensed facilities would be classified as Boardinghouses and would be subject to a Use Permit in R-10 and R-20 districts.

Table 2.5: Proposed Revisions to Zoning Regulations for Residential and Other Accommodations																			
	RE	RR	R-4	R-6	R-10	R-20	PB-C	C-0	C-1	C-2	C-3	M-C-R	W-F	M-1	M-2	H	RT-C	RT-R-10	RT-R-20
RESIDENTIAL USES																			
Convalescent and Extended Care Housing					U	U						U				U	U	U	U
Fraternity-Sorority/Dormitory			U	U															
Multi-Family					U	U						U				U ²	U		U
Residential Care Facility ¹			U	U	U	U		U	U			U				U ²	U	U	U
Room and Boarding House					U	U	U	U	P	P	P	U							
COMMERCIAL USES																			
Bed and Breakfast	U	U										U	U				U	U	
Hotel-Motel							U ⁵	U	P	P	P	U				U ⁵		U	U
PUBLIC/SEMI-PUBLIC USES																			
Clubs and Lodges			U	U	U	U	U	U	U	U	U					U	U		
Homeless Shelter														P	P				

NOTES:

1. Hospices and Small Residential Care Facilities are a permitted use in any district where residential uses are allowed.
2. May be located only on sites adjacent to freeway interchanges.

Option 2: In addition to including new definitions and use regulations, amend the Zoning Ordinance to classify and categorize Group Housing facilities that should be regulated in the same manner and establish requirements that apply to all Group Housing facilities. The following residential use classification would encompass a variety of group housing facilities:

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Group Housing. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for semi-transient or permanent residents on a weekly or monthly basis. This classification includes rooming and boarding houses, dormitories, private residential clubs, residential hotels intended for long-term occupancy (30 days or more), transitional housing offering shared living quarters or on-site services, halfway houses, hospices, board and care homes, clean and sober homes, residential care facilities and rehabilitation centers. Group housing includes both unlicensed facilities and those licensed or supervised by a federal, State, or local health or welfare agency. It excludes Small Residential Care Facilities, Bed and Breakfast Inns, Hotels and Motels, and other facilities that provide overnight accommodation for payment for periods of 30 consecutive calendar days or less.

Following are examples of specific requirements the City of Antioch could adopt to regulate some behaviors that may be of concern. By making regulations applicable to all Group Living facilities or even to all multi-unit housing, the City would avoid singling out the occupants of residential care facilities in a manner that might be considered discriminatory.

Density and Development Standards. If Antioch amends its zoning ordinance to establish a category that encompasses a variety of group housing facilities, it can impose standards that limit the number of bedrooms that would be allowed in all group housing facilities as the City of San Francisco has done. The City could also impose parking and minimum open space standards as long as they apply to all uses within the group housing category. Where necessary, the City can implement reasonable accommodation provisions to modify or waive requirements applicable to housing facilities for disabled persons.

Smoking. An increasing number of California cities are adopting ordinances that restrict smoking in multi-unit housing and other facilities. A local ordinance or policy could:

- Prohibit smoking in all indoor common areas of multi-family and group housing facilities, such as hallways, lobbies, storage areas, and laundry facilities (enclosed workplaces are already required to be smoke-free under California Labor Code section 6404.5, the State smoke-free workplace law);
- Prohibit smoking in outdoor common areas, such as a swimming pool, barbeque area, and parking lot;
- Prohibit smoking in all units, including individual balconies and patios, or in private open areas (individual balconies or patios but not within the unit);
- Prohibit smoking in a certain percentage of units in a building and group these units together to create a smoke-free wing or floor;
- Prohibit smoking within 25 feet of the property line of multi-unit or group housing facility.

Alcohol. The City could prohibit consumption of alcohol or possession of open containers in the common areas of all group housing and even all multi-unit facilities.

Loitering. California laws restricting loitering are chiefly contained in the Penal Code. Loitering is defined in Section 653.20 as delaying or lingering without lawful purpose and with the intention of

committing a crime if an opportunity arises. The Health and Safety Code also prohibits loitering with the intention to engage in drug-related activity. Chapter 9.5 of the California Health and Safety Code states that it is unlawful to loiter in any public place with the intent to engage in drug-related activity. Activities that would suggest such intention include acting as a "look-out," transferring small objects for currency in a furtive manner or being under the influence of a controlled drug. Any person with a previous criminal record of a similar offense would be under suspicion of intending to engage in drug-related activity.

Nuisances. Although most California cities have enacted nuisance ordinances these are not usually part of the zoning ordinance. Incorporating nuisance provisions within the zoning ordinance allows a city to impose an additional level of zoning regulation. If Antioch amends its zoning ordinance in a manner that would make some existing facilities nonconforming, it should consider adopting procedures similar to the City of Oakland's Deemed Approved provisions that would require nonconforming facilities to conform to all or some of the requirements in the updated code. The chapter would include a revised definition of public nuisance that would allow the City to take action against nonconforming uses that were established without use permits. An expanded definition of nuisance such as the following, which would apply to the operator of a facility as well as its occupants, would facilitate enforcement:

Maintenance or operation, by omission or commission in such a way as to result in or facilitate any of the following activities, each of which the City hereby declares to be a public nuisance: disturbances of the peace, illegal drug activity including sales or possession thereof, public drunkenness, drinking in public, harassment of passers-by, gambling, prostitution, public vandalism, excessive littering, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), noxious smells or fumes, curfew violations, lewd conduct or police detention, citations or arrests or any other activity declared by the City to be a public nuisance.

Revised provisions could allow the Planning Commission, Community Development Director, or City Council to initiate proceedings that would lead to an enforcement hearing before the Council. If the Council determines that a use, structure, or building constitutes a nuisance, the Council could impose any available remedy including enjoining the use in whole or in part; imposing reasonable conditions upon any continued operation of the use, including those uses which constitute existing non-conforming uses; requiring continued compliance with any conditions so imposed; requiring the user to guarantee that such conditions shall in all respects be complied with; and, upon a failure of the user to comply with any conditions so imposed, imposing additional conditions or enjoining the use in whole or in part. The ordinance could also include provisions allowing the City to record a notice of violation against a property. This would ensure that new owners receive legal notice of zoning problems and provide an incentive for correcting zoning violations by creating an obstacle to securing financing.

2.6 Zoning for Employee and Farmworker Housing

Housing elements, as required under California State law, must include an analysis of special housing needs, for groups likely to face financial hardship, discrimination, or other challenges in retaining safe and affordable housing. The law specifically requires analysis of the certain groups, including farmworkers. Municipalities that identify other groups with special housing needs, such as day laborers, must address these needs in the housing element. The analysis must include a quantification of the need, an assessment of existing resources and constraints, and identification of program or policy options or resources to meet the need. Based on review of census data, there does not appear to be any need for the City to make specific changes to its regulations to comply with these requirements.

The 2007-2014 Housing Element reports that there were 122 persons employed in agriculture in Antioch as of 2000, based on the most recent available data. These data report the number of employees by industry (Table P49), not by occupation. Table P50 indicates that only 28 residents were working as farmers and farm managers, which is probably a more accurate reflection of the potential need for farmworker housing in Antioch.⁸ (Table P50) ABAG projects that Antioch residents employed in agriculture will rise to 130 by 2030, from a baseline of 80 in 2000 (the reason for the discrepancy between ABAG and Census data for 2000 is unclear). The analysis described above is intended to address the special housing needs of persons whose primary incomes are earned through permanent or seasonal agricultural labor.

The presence of farmland in the immediate area provides an indication of the local population of agricultural laborers. Antioch and its Sphere of Influence today contain about 1,300 acres of agricultural land and some 8,800 acres of current or former grazing land, according to the General Plan.⁹ The 2007 Census of Agriculture finds 21 farming operations in Antioch's two ZIP codes, with 13 of these smaller than 50 acres, and five larger than 1,000 acres (these are likely to be grazing operations).¹⁰

All of the agricultural land within the City is planned for development or open space conservation. The undeveloped land outside the City is outside the Urban Limit Line (ULL) established by Contra Costa County's Measure C-1990, as amended in 2000. The County views this land as a long-term open space resource. However, the Antioch General Plan seeks to revert to the 1990 ULL, which included some of this land, and plans for development of low-density, master-planned communities here.

Existing farms in the area require some agricultural laborers. In the longer term, very little land is expected to remain in agricultural use in the vicinity of Antioch. While agricultural land will be

⁸ U.S. Census Bureau, American Fact Finder <http://factfinder.census.gov> accessed 8/2/11.

⁹ City of Antioch General Plan, November 24, 2003.

¹⁰ US Department of Agriculture 2007 Census of Agriculture, <http://www.agcensus.usda.gov/>, accessed 8/5/11.

preserved elsewhere in Contra Costa County and beyond, farmworkers associated with that land can be expected to live closer to those areas.

Antioch has a very small number of farmworkers by the most generous definition. While there is a significant amount of farmland in the area today, the General Plan anticipates development, open space conservation, or the creation of master-planned communities with significant open space for all of this land. The role of agriculture in the local economy can be expected to diminish. As such, Antioch does not appear to have any specific obligation to provide housing or other specific programs or zoning actions to address the housing needs of farmworkers. Like other low-paid laborers, farmworkers and day laborers face serious challenges obtaining decent housing they can afford. By amending its policies and regulations to accommodate its share of the regional housing need for very low-income households and large families, the City should be able to meet its obligation to comply with the State requirements for accommodating those who are employed as farmworkers. As an additional measure, Antioch may want to consider providing support for farmworkers and/or other temporary or seasonal workers by coordinating with a non-profit or advocacy organization to provide housing for laborers, on sub-leases from the organization or a related strategy.

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3 Appendices

3.1 Stakeholder Interviews

The Consultant conducted face to face interviews with a majority of Planning Commission and Councilmembers on March 21, 2011. Those officials who were unable to participate in the interviews subsequently received the same list of questions by e-mail (Appendix B). The Consultant also sent a questionnaire to a list of developers, property owners, and community groups that City staff identified as having potential interest in the project or relevant expertise (Appendix C). The following section summarizes the comments received from City officials during the interviews and by e-mail. None of the other interested parties responded to the questionnaire.

3.1.1 Summary of Comments from Planning Commission and City Council Interviews

3.1.1.1 Existing Design Guidelines and Standards

In general stakeholders felt the Design Guidelines is a good tool, and would be a good start for establishing standards. One stakeholder indicated that the guidelines represent the minimum to get desired development in Antioch. In general, however, they are too new to judge if they are effective, as very little development has occurred since they were adopted. Some stakeholders felt that educating developers on the new guidelines and enforcing them will be important, particularly given the leeway allowed in the past.

Some concern was expressed regarding existing regulations that require mixed use on certain streets in downtown, specifically where they require retail downstairs and housing upstairs in the downtown area, since some businesses may want to use both upstairs and downstairs. It was noted that this requirement might not stimulate business or make it harder to attract investment.

Specific Regulations and Compliance

Several stakeholders noted the importance of maintaining and enforcing existing standards and guidelines. Some observed that in the past the City was too eager to attract new development and accepted projects that were less than desirable. There was a consensus that it would be best to quantify and codify requirements to the extent possible because doing so will help developers come in with plans that meet goals. It was noted that the guidelines should cover areas that are more flexible (one stakeholder thought windows should be in the guidelines). Regulations that stakeholders thought should be expressed as standards include:

- Height, setbacks and side yards in zoning. Setbacks are an issue – they seem to be getting smaller; soon will be zero lot lines, couldn't fit garbage.
- Lot size: Developers have been proposing smaller lots (e.g. ½ acre rather than one acre).
- Landscaping between sidewalk and multi-family buildings.
- Materials in some cases such as moisture resistant wood/plywood when building in rainy season (which may be a building code compliance issue).
- Roof shapes and articulation.

Implementation Procedures

Stakeholders in general felt that the review process has been streamlined and that a lot of work has been done to make the process friendlier and more effective for developers, particularly in contrast to the previous system that was convoluted and unclear for developers particularly due to having a separate design review board. The Design Guidelines were identified as one element that helps to streamline the process because they add specificity and are easier to read and interpret than in the past.

However, stakeholders indicated that more work could be done to clarify what the City wants and to make it clear to developers what is expected of them. It was noted that developers and landowners

without experience are still shocked at all they have to do. Several stakeholders wanted to get away from the 'beauty contest' approach, and establish clear regulations that are not open to interpretation so that it is clear that if a project meets the standards it can go forward.

Another comment was that Antioch needs a good plan to clarify City goals and objectives and that the lack of a good and clear plan may be an obstacle to redevelopment. The creation of a City portal/website to help developers understand the development process was suggested.

Most stakeholders felt that shifting more review responsibility to staff could make the process faster and more efficient. While a variance process is still needed for projects that don't meet regulations, staff review should be increased for projects that meet the guidelines. It was noted that this has started happening for some decisions, such as signs, where it is very clear what is desired. Stakeholders felt that larger projects and those actions that may have more of an impact should continue to go before the Planning Commission. One person said that this should include decisions on telecommunications sites.

A key concern with increasing staff review was the current lack of staff to do the work. It was noted that the lack of staff is discouraging to developers. The fact that it is difficult to get help from staff or find someone to answer questions is a cost to developers.

3.1.1.2 Community Benefits

Stakeholders identified a range of benefits that the City should solicit in exchange for development incentives. Several commented that the specific desired benefits should vary from project to project. There was also some support for offering in-lieu fees as an option because this would provide greater flexibility. One stakeholder cautioned that while the City has some rules laid out for receiving impact fees for parks and schools there may be a fine line for distinguishing requirements and fees that create a barrier to entry.

There was general support for obtaining benefits including:

- Provisions that would help to make retail viable, including assistance to start-ups, if this would help to promote more retail activity. In particular, one stakeholder wanted to see a good grocery in the Downtown area.
- Improved walkability, lighting, and streetscape maintenance.
- Parks, including pocket parks on site that would be privately owned and City parks that would be publically owned after construction by the developer. One stakeholder noted that maintenance is a problem—privately owned open space has suffered from inadequate maintenance while the City has had to close some facilities because of inadequate funding to run them. There was some sentiment for only requiring developers to provide on-site park and recreation space.
- Public art – one stakeholder felt public art should probably be required rather than an incentive, and be a percentage as opposed to RDA.
- Transit oriented development that provides improved access to public transportation and includes mixed use, especially near eBART

- Community facilities, including a library, childcare, and recreation center/facilities (such as an indoor sports facility that would be open to the public and/or rented for City use). One stakeholder felt that all large developments should be required to include childcare and recreation space for kids. Others expressed concern about their viability of staying open (given an example of a recently closed daycare). One stakeholder noted that they like the community fund because then the City has discretion to use it.
- Traffic improvements/reducing traffic impacts in project area.
- Enhancements to refuse collection areas and improved screening protection on commercial sites, including requirements that they be locked.
- Economic development, including jobs and job training, although it was suggested that requiring job training might be acceptable to businesses depending upon the type of training (e.g. green energy) and companies such as Dupont, Kaiser, and Sutter Health might be interested in partnering with educational institutions for this purpose. Stakeholders suggested to the need for a strategy that first determines which companies to attract first and then establishes programs with high schools to tie job programs with employers.

There was less support for considering the inclusion of affordable housing as a community benefit. Stakeholders felt that the City already has a considerable amount of affordable housing particularly in light of market conditions and had reservations about offering incentives to developers to provide additional affordable units. Several also observed that most of the housing in Antioch is more affordable than comparable units in other areas. They were willing to consider higher density housing that includes affordable units near transit and in other appropriate locations but some interviewees objected to adding denser multi-unit projects in order to provide more affordable housing.

There was a mixed response to providing incentives for including green building features. Some stakeholders felt that green development was simply good design or a developer marketing tool, but others said that the City should push green development, such as solar installations on rooftops, which could reduce demand on the power grid. Energy efficiency was supported in general.

Some stakeholders felt that it is necessary to determine on a case-by-case basis what incentives should be offered in exchange for benefits. Because the value of incentives is tied to economic conditions, several officials observed that it is difficult to determine which incentives would be most beneficial over an extended period. While present market conditions may make it difficult for the City to offer sufficient incentives when economic conditions are better there may not be a need for any incentives at all.

Stakeholders felt the following incentives were likely to be the most effective:

- Several stakeholders suggested expedited processing but also recognized that currently the City doesn't have enough staff for this. It was noted that clarifying what the City wants and avoiding negotiation would be important in speeding up review process.
- Added height could be good on an individual basis and in certain areas, and in particular near transit.
- Added FAR okay under the right circumstances.

- Fee deferment.
- Modified setbacks and open space requirements.
- City owns real estate and can provide land below market for first few years to get businesses started. Developers would then develop site, put money in fund, and actively recruit/bring in retail and office.

There were mixed opinions on a few incentives. While stakeholders recognized that the density bonus may be the only way to get developers to provide affordable housing, it was noted that some residents do not support this approach. There was some opposition to allowing development on smaller lots or allowing smaller units as an incentive on the grounds that it is important to ensure that projects meet development standards.

3.1.1.3 Parking

Stakeholders felt that existing parking ratios were adequate and were not aware of complaints that parking standards were a constraint to the type of development the City desired. They were hesitant or did not support the idea of reducing requirements or bundling parking with the possible exception of development located close to transit based on data showing reduced need in such cases. While most agreed that the regulations should provide greater flexibility in devising ways to provide parking for both businesses and residential uses, there was a consensus that the responsibility for supplying parking should be born by each developer. There was mixed opinion about whether or not there is sufficient parking in Downtown. Some specific thoughts on parking included:

- Reserve land Downtown now to allow development of a parking structure when and if ferry service commences.
- Explore the use of shared parking in the Downtown. Shared parking may be feasible at night and on weekends but it should be off-street. Residential development should be required to provide parking in all cases.
- Consider establishing permit parking in some areas.
- Parking should be within structures and out of view. Consider incentives for underground and structured parking Downtown. Avoid scattered parking throughout Downtown.
- Consider adopting standards that would require underground or podium parking.
- Need to find solutions for RV parking.
- Some concern about adequacy of parking for visitors in some new developments (Blue Rock and Lone Tree).

3.1.1.4 Comments on Recent Development

Improvement in quality of residential development over the last 5-7 years especially since implementation of design guidelines, which include examples of good design. Specific examples include:

- Development on Laurel near the bypass – quality development, good mix of homes, affordable price points.

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- Eden project is well maintained. Maintenance has been a problem for affordable units indicating importance of good management. Similar project near 4th Street/ Babe Ruth field may be stalled due to issues regarding industrial activity in area. Eden project evidences strong sense of ownership.
- Nice Senior Projects, such as the Commons at Dallas Ranch.
- Vista Grande and projects on Lone Tree and near Lowe's are well done.
- Golf Course - Single-family example but well priced. Approved prior to adoption of design guidelines so may not be an example of impact of City regulations.
- KB Home, Renaissance at Blue Rock: Four townhomes (like San Francisco with compact design) share a driveway, HOA pays for maintenance, sold to first time homebuyers, small lot zoning/zero lot line. Would support a similar development with smaller footprint/two story, fee simple (not condo).
- Wild Horse off Hillcrest. Nice design of houses and site, which may result from change in developers after plan was approved.
- Much of Roddy Ranch has been approved but not yet built.
- Some of the development on East 18th provides example of good design and amenities.
- Other examples of good design include development off Golf Course Road, along extension of James Donlon, and apartments on Lone Tree Way, which are well maintained. While appropriate for Lone Tree location, this type of development would not necessarily be appropriate in waterfront area.

Examples of good commercial development include Slattern Ranch, Venture Commerce Center, and retail at Hillcrest and Lone Tree across from cinemas.

Stakeholders liked the community facility near water park, funded with bond money and by private developers. Noted that the police sub-station near the high school added value to the area where it is located. Other examples of desirable development included:

- Brentwood streets design,
- Affordable housing in Pittsburg off Harbor and near Los Medanos College,
- Fourth Street shopping area in Berkeley.
- Downtown Walnut Creek around BART.
- Pleasant Hill transit village because of proximity to transit and freeway.
- Santana Row mixed-use;
- Old Town Pasadena.
- Downtown Long Beach
- Jack London Square, Oakland, lofts.

Stakeholders also identified some projects and features of existing development that were unsatisfactory including:

- New shopping center in east part of the city; same standard stucco used everywhere. Sets a bad precedent.
- Oil Can Henry's, KFC Appleby's development could have been better oriented. Would have been different outcome if guidelines were in effect.
- Asian market behind steakhouse difficult site/poor location, now is vacant not older than two years; set too far back off of the main road. Zoned commercial, abuts residential.
- Sycamore. Lots of crime in that area. All housing apartments. Need to include recreation center or childcare in larger development like Sycamore. Need youth activities that serve new development required in every large development.
- Development off James Donlon that was built under entitlement from 1980's. Balconies may have safety issues.

City turned down Habitat residential project because development type was inappropriate for major access to waterfront. Not a good use of redevelopment funds because cost was too high for proposed product. Not possible to build at \$100/sf, which would have been sale price. Preferable to use funds to buy existing homes and resell them to people who need assistance and can qualify. Instead of subsidizing rents or new construction City should support projects that could rebuild neighborhoods by renovating existing units, investing in distressed properties for sale to first time home buyers, younger families, and other new buyers. Owners have longer-term commitment and are less transient than the renting population.

3.1.2 Development Opportunities

Downtown and Waterfront

- Proximity to water offers opportunities for great development but may take 5-10 years for redevelopment to occur.
- Along with Roddy Ranch, waterfront is Antioch's major opportunity for development, which could totally change Antioch and how it is viewed from the outside.
- Good location for high-density development, which could accommodate affordable housing but the waterfront is not necessarily the best place for this type of housing.
- City needs a downtown plan.
- Focus on transit oriented development.
- Every City needs higher density development. With a population of 100,000, Antioch will need higher density development and taller buildings in long term, especially near transit.
- Point area should be developed for housing such as two story condos to take advantage of ferry and proximity to water as done in Discovery Bay. Need to resolve controversy regarding park versus housing there.
- Former cannery site could be appropriate for condominium development, especially near waterfront, and senior housing after remediation.
- Wharf is prime property for redevelopment but also has remediation issues.

- Need to consider how water access should be incorporated given location of tracks.
- Middle- to upper-income condos along the river with market pricing—higher density and higher income housing is needed to revitalize the area. San Diego a good example.
- Need to do something at Humphrey’s site.
- Many residents are commuters who don’t spend enough time in the City to use amenities like a wharf.
- Bases Loaded example of Downtown restaurant that is doing well. Hopefully business will continue to pick up because now there are more closed than open.
- Design Issues:
 - Renovate old buildings for mixed residential and commercial use;
 - Ensure that design of new development and alterations is compatible with Rivertown style, Capanile Theater;
 - Could be similar to Gas Lamp District in San Diego.
 - No more than 3 stories to be consistent with older buildings.
- Target Demographics:
 - Over 55/empty nesters: new demographic with disposable income, market rate.
 - Stimulate downtown area by providing housing for work force and young people to stimulate the area – not just seniors.
 - First time homebuyers.
 - Need more than infill low-income – need higher income levels to support retail and office. Affordable and market should be throughout the community.
 - Prefer condos with individual home ownership rather than rental apartments in Downtown.

Transit

- Hub development around tri-delta, Amtrak, and ferry.
- BART will provide the City’s greatest opportunity and catalyst for growth and would spark redevelopment.
- Areas around BART area provide great opportunity for higher density, lofts, retail, library, etc. similar to development around BART in downtown Walnut Creek around BART.
- Workforce housing will be needed for employees who eBART will bring to Antioch.

Other Opportunities

- In addition to waterfront, probably 3 or 4 important areas in the city where something will happen in the future--FUA1 probably pushed out past 8 years; Hillcrest in next 5 years, and something Downtown relative to the ferry.
- Industrial development and high density housing off East 18th;

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- Be more cautious on G Street, more housing on open land, e.g. the Point and industrial land. Greatest intensification should be in open areas.
- Redevelop A Street into a more marketable area.
- Redevelop Somersville town center develop into a mall area to prevent decline of area;
- Potential need for student housing if Los Medanos becomes State college. Delta Fair area could be suitable for student housing, which can add a lot to an area, like at Sonoma State and San Francisco State.
- Promote retail that is more ethnically focused. Be purposeful about niches. Leverage ethnic demographic. Mi Pueblo supermarket an example. Need to attract relevant ethnic businesses to add to city.
- Rezoning declining mall for multifamily housing and to update centers, too much parking for current level of business.

3.1.2.1 General Comments

- Residents don't want 30 units/acre.
- Little demand for new housing, with exception of multifamily – good quality multifamily and townhomes will have market sooner.
- There is more land zoned commercial than needed for near future.
- Prefer estate housing like Roddy Ranch rather than apartments and lower income development in East County. People have moved to Clayton, Danville, to find type of housing not available in Antioch.
- Everyone can't just build by right and limit the total number of units – need to have sufficient infrastructure – developers have to pay for infrastructure.
- City needs to attract developers who know how to do desired types of development. Initiate contact with developers that do innovative work and redevelopment work.
- City is not getting all of the development it wants. This is not only a function of process, but also due to socio-economics. City looking for mid- to up-scale businesses, professional, retail but has been bypassed by business that go to Brentwood, Concord, and Pittsburg. City of Pittsburg owns many businesses downtown and has offered free rent, loans to get people downtown. Antioch not doing that.
- Process is different now because nothing is being built. Primarily commercial use permits. Enticing development is the biggest problem. Some of the problems with reputation are due to planning decisions made in the past.
- Regulations have not discouraged development – had a lot of demand prior to the downturn. Regulations didn't stop development prior to the economic downturn. Some complained that fees were too high, but that didn't stop applications and City was getting benefits from the RDA process.
- Many people wanted to stop development due to frustration about transportation issues.

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- We were starting to get what we wanted – senior housing, golf course with adult community (planned), Roddy Ranch executive housing (planned). People working at Dow go to Clayton because no executive housing in Antioch. Young managers and mid-level management want to invest – looking for condos – lacking in good neighborhoods in Antioch.
- Fees not that bad. City spent a lot on infrastructure.
- New development is stagnant and won't rebound until values come back because prices can't compete with resale homes.
- Antioch went from blue-collar industrial community to bedroom community. Hard to get businesses to locate in Antioch now because of access problems. Moving products out of Antioch is a one-way deal. Long haul to I-5 or 580.
- Would like to add a health element to the GP.
- Concern that new development will become all rental when City should promoted owner occupied. At the same time, need to regulate landlords to prevent slumlords.
- If nothing is done to reverse decline there won't be the city [we] want it to be – city is now is deteriorating, people loitering – developers don't like the image and stay away.

3.1.3 Antioch Housing Element Implementation Stakeholder Interview Questionnaire

1. How have you been involved with the development process in Antioch and what are the specific development regulations with which you are most familiar?
2. Speaking from your own housing perspective, what do you see as the major problems with the City's land use and development regulations? Do they have more of an impact on your development decisions than general market conditions and financing? How do they effect the type, location, and quality of residential and mixed-use development and why?
3. Do you think the City's zoning regulations and design review guidelines are effective in achieving the kind and quality of development the City desires? If not, how should they be changed to achieve better results?
4. Conversely, do you think the City's development regulations and review process may discourage residential developers from coming to Antioch? If so, why are they an impediment? Can you give us some specific examples?
5. Antioch grants density bonuses for projects that include affordable housing in compliance with State law and has also established a Senior Housing Overlay District. Are you familiar with these regulations? Are density bonus programs an effective way to encourage the production of affordable housing in Antioch?
6. Does the need for affordable senior housing warrant a separate program?
7. The City is proposing to amend the zoning ordinance to offer additional incentives to developers who provide affordable housing or incorporate other amenities and community benefits in their projects. Which of the following incentives should the City offer?
 - Additional height
 - Additional floor area
 - Reduced parking
 - "Unbundling" parking (i.e. selling or leasing parking separately rather than automatically including with unit)
 - Modification to other development standards (e.g. setbacks, open space, etc.)
 - Expedited processing
 - Fee deferment for any project that provides community benefits and/or fee waiver for infill development on smaller sites
 - Other?

8. What community benefits should the City request in exchange for providing development incentives? Please rank in order of value and desirability.
 - Affordable housing
 - Senior housing
 - Green building or site design features that exceed code requirements
 - Public art
 - On-site community facilities (e.g. day care, senior center, health clinic)
 - Off-site community facilities
 - On-site pocket parks/playgrounds available to general public
 - Off-site public parks/playgrounds
 - In-lieu fees for parks or community facilities
 - Ground-floor retail uses
 - Job-training for unemployed or underemployed residents
 - Off-site public improvements (e.g. undergrounding, fixing sidewalks for the whole block, street trees on then block)
 - Other?

9. Which specific projects that have been built in Antioch over the past decade do you particularly like? What about projects in other Contra Costa cities? Which features make these projects particularly attractive to you?

10. Are there any specific projects that have been built in Antioch over the same period that you dislike? Why? What changes should the City have required to improve these projects?

11. How do Antioch's parking requirements affect development?
 - Do the parking requirements generally match actual parking demand?
 - Are the parking exceptions allowed under the current ordinance effective in providing flexibility in parking requirements for uses or locations where the actual demand for spaces is less than what would otherwise be necessary?
 - What factors might justify reductions in city-wide standards or reductions near a future transit facility (e.g. eBART)?
 - If standards were reduced, would lenders still require you to provide a certain amount of parking? Are there other cost savings you would like to see (e.g. stall sizes – check ordinance; limits on compact spaces, use of a universal space or reduce aisle widths)?

12. Are there other issues we have not covered that are important for us to consider?

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