SEC. 6-303. - SEWER CONNECTION REQUIRED.

Exhibit J - Fresno Municipal Code Regulations

(a) Every building or structure in which plumbing fixtures are installed, and every premises having piping thereon, which conveys sewage or other liquid wastes to an approved point of disposal, shall be connected to the regional sewer system if it is available, except that:

(i) In the R-A, AE-5, and AE-20 zone districts, on a lot at least two net acres in size, and provided the lot, if not served by a community water system, contains one dwelling unit or septic system per 2.0 acres, such connection may be deferred until the use of the land changes either through district amendment or special permit.

(b) The regional sewer system is available, for the purposes of this section, if a sewer main has been constructed and is available for use in any public street, alley or right-of-way within 100 feet for the first unit plus 50 feet for each additional unit, to be measured along such public street, alley or right-of-way from the nearest property line to the sewer main. For the purpose of this section, the number of units computed shall include all units developed on contiguous property held under one ownership.

(c) Notwithstanding any provision to the contrary, buildings or structures, connected to a septic tank or cesspool at the time the regional sewer system becomes available, shall be connected to the regional sewer system within three years after the regional sewer system becomes available or, if the property has previously been subject to an earlier connection date by reason of requirements of a jurisdiction other than the city, then said connection shall be made on or before said earlier date, provided that if the Director determines the continued use of the septic tank or cesspool will create an immediate health menace, the property shall be connected within the time specified by the Director. Buildings or structures not connected as required by this section are public nuisances.

(d) No person shall cause, suffer or permit the disposal of sewage, or other liquid wastes into any drainage system on any lot which is not connected the regional sewer system when such connection is required by this section except for one- or two-family dwellings that have graywater connected to a graywater system in accordance with the requirements set forth in the current edition of the California Plumbing Code as amended and adopted by the City of Fresno.

(e) Cemeteries will not be subject to the requirements of Section 6-303, except that any facilities used for other than cemetery purposes and separate major maintenance facilities fronting a public street shall be required to connect to the city sewer system subject to the availability of sewers as provided in Section 9-502.

(Orig. Ord. 4726; Am. Ord. 5415, 1958; Am. Ord. 5777, 1960; Am. Ord. 6466, 1964; Am. Ord. 6882, 1966; Am. Ord. 6889, 1966; Am. Ord. 82-100, § 1, eff. 10-15-82; Am. Ord. 85-22, § 1, eff. 3-22-85; Am. Ord. 98-97, §§ 4, 5, 1-9-99; Am. Ord. 2010-10, § 1, eff. 5-16-10)

SEC. 13-208. - STREET IMPROVEMENTS. DEDICATION.

(a) All work performed within a street shall be in accordance with standard specifications established by the Director, and adopted by the City Council. The Director shall prepare standard specifications for all of the work performed in public streets under this article.

(b) No more than sixty per cent of any street frontage shall be constructed with driveway openings. The Director may, under the provisions of Section 13-216, grant a deviation in the amount of frontage allowed in driveway openings and their widths along certain street frontages serving industries or manufacturing plants requiring mass transportation facilities.

(c) No building permit shall be issued for any building or structure to be erected, altered, expanded, or enlarged on any lot to the extent that the cost of such work exceeds fifty per cent of the estimated current replacement cost to replace the present building or structure in kind, unless the one-half of any street contiguous thereto has been dedicated and street improvements thereon have been provided for. In the event official plan lines have not been established, the Director shall determine all street widths for dedication to protect the public interest, safety and general welfare, providing, however, the applicant for said permit may appeal the determination of the Director to the City Council in the manner provided in Section 13-216 of this article.

(1) The maximum area of land required to be so dedicated shall not exceed twenty-five per cent of the area of any such lot which was of record on September 1, 1965, in the Fresno County Recorder's Office. In no event shall such dedication reduce the lot below a width of fifty feet or an area of five thousand (5,000) square feet.

(2) No such dedication shall be required with respect to those portions of such a lot occupied by a main building which was existing on July 1, 1965.

(3) No additional improvements shall be required on such a lot where complete asphalt concrete roadway, concrete curb, gutter, and sidewalk improvements exist within the present dedication contiguous thereto.

(d) The Director may require the owner of property adjacent to any arterial or collector street to construct the outer twelve-foot wide travel lane on the arterial or collector street section whenever the Director determines such construction is required. The Director shall use the standards set forth in Chapter 27 of Division 7 of the Streets and Highways Code in making his determination as if the provisions of that code expressly authorized such action concerning arterial and collector streets. The Director shall follow the procedures set forth in Chapter 27 of Division 7 of the Streets and Highways Code to accomplish the street work described above. The adjacent property owner may also dedicate such additional right-of-way as is necessary to construct the street improvements required by this subsection upon a Deed of Easement prepared by the city. The Director shall follow the procedures set forth in Chapter 27 of Division 7 of the Streets and Highways Code to accomplish the construction and to perfect and enforce the lien.

(1) If the property owner has not dedicated such additional right-of-way within thirty days after the city's written request for the right-of-way or completion of all protest proceeding under Chapter 27 of Division 7 of the Streets and Highway Code, whichever is earlier, then the city may acquire the right-of-way with its own funds. In that event, the cost of the right-of-way shall become a lien upon the property as herein provided.

(2) When the city acquires right-of-way because owner does not dedicate it, then the cost(s) of acquisition shall be reimbursed to the city upon subsequent development of the property, as herein provided. The amount to be reimbursed shall be estimated and recorded in a notice of potential lien applicable to the adjoining property, in the manner provided by Section 13-229(f), and reimbursed to city.

It is the intent of the city, in referring to the Streets and Highway Code in this subsection (d), to merely borrow the procedures set forth therein. The City relies on the authority it possesses under this Municipal Code and its charter in establishing the foregoing requirements.

(e) Whenever street improvements are required, the Director shall require curb, gutter, driveway approaches and asphalt concrete surfacing to be placed on an approved base for the frontage improved as follows:

(1) Major Street (arterial and collector): A distance of twenty feet from face of curb; or

(2) Local street: A distance of eighteen feet from the face of curb or to the center of the street, whichever is greater.

If the adjacent portion of the street have not been constructed to the planned grade, the lot owner or improver shall pay the city the estimated cost of the work as determined by the Director in lieu of constructing the required street improvements.

(f) Whenever street improvements are required, concrete sidewalks, curbs, gutters, and driveway approaches shall be provided or repaired (except for damage caused by roots of trees located in city streets) along all street frontages in accordance with current standard specifications, with the following exceptions:

(1) Sidewalk Waivers. A deviation to omit sidewalks may be granted pursuant to Section 12-1018 of this Code relating to modification of subdivision requirements, or by the Director pursuant to the provisions of Section 13-216, in accordance with the following:

(i) Local Streets. Waivers of sidewalk requirements on local streets may be made in residential zone districts where the average lot size is twelve thousand five hundred square feet or more in area, and in the C-M, M-1-P, M-1, M-2 and M-3 zone districts. The approval of any such waiver shall be based upon the nature of development in the general area and not solely upon an individual property.

(ii) Major Streets. Waiver of sidewalk requirements on major streets may occur when associated with development entitlements in the M-2, M-3 and R-M zoning districts if the Director determines that it will be physically impractical or infeasible to install a sidewalk in the area, and that the waiver of the sidewalk requirement will not be detrimental to the public safety. In addition to the consideration of other criteria which may be established by the Director, a determination waiving sidewalk requirements shall not be made unless the Director finds as follows:

1. That the waiver will not presently or prospectively have a detrimental effect upon general pedestrian safety, school routes, and pedestrian traffic resulting from mass transit service.

2. That no other sidewalk exists along the same side of the major street on which the waiver is requested between the two intersecting major streets on either side of the waiver area.

3. The major street on which the waiver is requested is paved to a width sufficient that no travel lane is within eight feet of the curb along the frontage of the sidewalk waiver.

(iii) Appeal of Director's Decision. In the event a sidewalk waiver is approved by the Director, the owners of properties within a radius of three hundred feet of the exterior boundaries of the property the subject of the deviation shall be notified in writing of the decision. Such notices shall be by prepaid mail and the owner, for the purposes of such notices, shall be deemed to be the person or persons to whom the properties were assessed on the last assessment roll. The address to which such written notice shall be mailed shall be that shown upon such assessment roll. Such owners may appeal the Director's determination to grant a deviation under the provisions of Section 13-216.

(2) In the R-M District, street improvements shall be installed in accordance with the Standard Specifications of the City of Fresno for modified streets.

(3) When development may occur in stages, and only a portion of the property is to be improved, the Director may, in his discretion, allow sidewalks and driveway approaches to be confined to that portion of the street frontage abutting the portion of the property being developed, including areas used for parking of motor vehicles. This exception shall not apply if that portion to be improved is two-thirds or more of the total frontage or if fifty feet or less of street frontage would remain unimproved. When the balance of the property is improved, by landscaping or otherwise, sidewalks and necessary driveway approaches shall be required.

(4) In the case of city parks or playgrounds, curbs and gutters shall always be provided. Sidewalks may be omitted along all minor street frontages, except where playground usage requires fencing, and in these instances sidewalks shall also be provided.

(5) In the case of large developments requiring a Conditional Use Permit, or Site Plan review, under the provisions of Chapter 12 of this Code, the Director may, in his discretion, approve the installation of sidewalks in locations other than as required in the standards specifications providing that safety and aesthetic value are maintained.

(6) The Director of the Development Department shall deny the final approval or occupancy of any building until he has determined that required dedications have been made and street improvements required by this article are completed or have been guaranteed by a secured written agreement in such form and executed as required by the Director and approved by the City Attorney. The security for such agreement shall be in a form approved by the City Attorney and recommended by the Director, or by cash deposited with the city in an amount determined by the Director.

(g) In the R-A, AE-5 and AE-20 zone districts on a developed lot at least four net acres in size, when a portion not less than twelve thousand five hundred square feet of such lot is to be improved with one additional single-family residence, the Director may waive, separately or collectively, the curbs, gutters, sidewalks, driveway approach or permanent paving on the portion to be improved or on the remaining portion of such lot.

(1) If street improvements waived in accordance with this subsection (g) include a driveway approach, the Director shall require that an interim driveway approach be installed in a manner approved by the Director.

(h) The street improvement requirements of this section may be waived by the Director if the Director determines that such waiver will not be detrimental to the public safety and welfare and when the purpose for the requested building permit is the reconstruction of a building destroyed or partially destroyed due to an Act of God, and when no development or expansion other than such reconstruction is to be undertaken. (Added Ord. 6667, 1965; Am. Ord. 77-27, § 1, eff. 4-17-77; Am. Ord. 78-30, § 1, eff. 4-7-78; Am. Ord. 78-190, § 1, eff. 1-19-79; Am. Ord. 82-56, § 1, eff. 7-2-82; Am. Ord. 82-58, § 1, eff. 7-2-82; Am. Ord. 82-82, § 2, eff. 9-17-82; Am. Ord. 82-105, § 9, eff. 10-29-82; Am. Ord. 83-150, § 1, eff. 12-2-83; Am. Ord. 89-41, § 1, eff. 5-19-89; Am. Ord. 90-120, § 1, eff. 12-7-90).

SEC. 13-209. - STREET IMPROVEMENTS WAIVER. INFILL AREAS.

(a) Street improvement requirements for paving adjacent to lots with frontage on existing paved streets or alleys which are not paved in accordance with the adopted standard specifications may be waived pursuant to the procedures of Section 13-216 if the Director determines as follows:

(1) The property is zoned for residential uses.

(2) The property is located in an infill area of the city where the property in the general vicinity is substantially developed.

(3) More than fifty percent of the entire width of the street or alley upon which the property is located, between the nearest intersecting streets, is paved in a manner which is not in accordance with the adopted standard specifications.

(4) The frontage of the development constitutes less than fifty percent of the adjacent street or alley frontage between two intersecting streets, or is less than six hundred feet.

(5) The granting of the waiver will not be materially detrimental to the public welfare, safety or convenience, and will not adversely affect the rights of adjacent property owners or occupants, or be injurious to property or improvements in the area of the requested waiver.

(b) In all cases in which a waiver is granted, concrete curb and gutter must be installed in accordance with subsection (e) of Section 13-208. If the curb and gutter cannot be installed to planned line and grade without removal of existing paving, transitional pavement shall be required to conform to the new concrete improvements. Whenever concrete improvements are installed, paving shall be installed from the concrete improvements to the edge of existing paving.

(c) No waivers shall be permitted on major streets and for subdivisions or parcel maps consisting of more than four parcels. (Added Ord. 80-175, § 1, eff. 1-9-81; Am. Ord. 81-22, § 1, eff. 3-3-81; Am. Ord. 87-58, § 1, eff. 6-26-87).

SEC. 13-210. - STREET IMPROVEMENTS DEFERRAL. INFILL AREAS.

(a) **Sidewalk Deferrals.** Deferral of sidewalk requirements may be granted by the Director pursuant to the procedures in subsection (a) of Section 13-216 if the Director finds that all the following conditions exist:

(1) The property is zoned for single-family residential uses.

(2) The property is located in an infill area of the city where other property in the general vicinity is substantially developed.

(3) More than fifty percent of the street upon which the property is located, between the nearest intersecting streets, does not have sidewalks.

(4) The street frontage of the property constitutes twenty percent or less of the adjacent street frontage between the two nearest intersecting streets.

(5) The deferral will not presently or prospectively have a detrimental effect upon pedestrian safety, school routes, handicap facilities or pedestrian traffic resulting from mass transit service.

(b) **Concrete Improvement Deferrals.** Deferral of concrete improvement requirements, including curbs, gutters and driveway approaches, may be granted by the Director pursuant to the procedures in subsection (a) of Section 13-216 if the Director finds that all the following conditions exist:

(1) The property is zoned for single-family residential uses.

(2) The property is located in an infill area of the city where other property in the general vicinity is substantially developed.

(3) More than fifty percent of the street upon which the property is located, between the nearest intersecting streets, is not improved in accordance with the Standard Specifications.

(4) The frontage of the property constitutes twenty percent or less of the street frontage between the two nearest intersecting streets.

(5) Construction of the concrete improvements is not needed to eliminate existing drainage problems.

(6) Sidewalks do not exist in the area or are also deferred pursuant to subsection (a) of this section.

(7) The deferral will not presently or prospectively have a detrimental effect upon pedestrian safety, school routes, handicap facilities or pedestrian traffic resulting from mass transit service.

In addition to the above, the Director may also grant a deferral of concrete improvement requirements if he determines that the improvements cannot be constructed to permanent grade without major reconstruction of an adjacent street.

(c) Any request for sidewalk or concrete improvement deferral pursuant to this section shall be submitted by the property owner in writing. The request shall include a reasonably detailed statement on how the property qualifies for deferral under this section. The request shall also be accompanied by a fee in the amount designated in the Master Fee Schedule.

(d) No sidewalk or concrete improvement deferral shall be permitted on major streets or for parcel maps consisting of more than four parcels.

(e) **Deferral Agreement.** Any deferral pursuant to this section shall be conditioned on the owner entering into an agreement with the city for future construction of such sidewalks or concrete improvements at his sole cost and expense, including but not limited to cost of inspection. The agreement shall be recorded and shall be subject to and provide for the following:

(1) Construction of improvements shall commence within ninety days after the date of written demand from the Director to construct the improvements. The demand shall be based on the Director's determination that one or more of the conditions described in subdivisions (1) through (5) of subsection (a) or in subdivisions (1) through (7) of subsection (b), as applicable, have substantially changed. The demand shall state the basis for the demand and be mailed to the owner at the address specified in the agreement.

(2) Within sixty days after written demand by the Director to construct the improvements, the owner shall provide security to guarantee construction and completion of the deferred improvements. The security shall be in an amount equal to one hundred percent of the estimated cost of completing the improvements and shall be in the form of cash, a certificate of deposit assigned and payable to the city, an irrevocable straight letter of credit, or other form acceptable to the Director and the City Attorney. The security shall be maintained in full effect at all times until the improvements are completed and accepted by the City.

(3) The owner shall not protest the formation of any assessment district to finance construction or acquisition of the deferred improvements.

(4) If the owner fails to construct or complete the deferred improvements within the time required by the agreement, the city may, but shall not be obligated to, construct and complete the improvements. The owner shall be fully responsible for all costs incurred by the city in connection with completion of the improvements. A final accounting of such costs, when confirmed by the Director and recorded in the official records of the County, shall be a lien on the property. The owner shall be given written notice of the costs, by certified mail, at the most recent address on file with the Director or, if none, at the owner's address shown on the last equalized assessment roll. If the owner does not pay the costs in full within thirty days after the date of such notice, interest shall accrue on the unpaid costs at the maximum legal rate from the date the accounting of the costs was confirmed. The lien shall not be released until all such costs, including accrued interest, are paid in full, according to terms specified in the agreement. The remedy provided in this subdivision (4) shall be in addition to and without limitation on any other rights or remedies that may be available to the city, including but not limited to the right to resort to any security submitted by the owner.

(5) **Appeal.** The owner may appeal the Director's demand for construction of the deferred improvements to the Council, but only to the extent such demand is based on the Director's determination that the condition described in subdivision (5) of subsection (a) or subdivision (7) of subsection (b), as applicable, has substantially changed. The appeal

must be received by the Director within fifteen days after the date of the written demand for construction from the Director. The appeal shall be in writing and state in reasonable detail why the appeal should be granted. Upon receipt of a proper appeal within the fifteen day period, the Director shall set aside the demand for construction of the deferred improvements and set the matter for hearing before the Council within thirty days after the date of filing the appeal. Notwithstanding the above, a demand for construction of deferred improvements made in conjunction with an assessment district shall not be subject to appeal. (Added Ord. 88-46, § 1, eff. 4-15-88).

SEC. 15-2017. - UNDERGROUND UTILITIES.

A. **Applicability.** The standards of this section apply to all of the following:
    1. New development;
    2. The demolition and reconstruction of a site;
    3. Any other time deemed appropriate by the Public Works Director.
B. **Standards.** All electrical, telephone, cable television, and similar distribution lines providing direct service to a development site shall be installed underground within the site. This requirement may be waived or deferred by the Public Works Director or the City Engineer upon a determination that the installation is infeasible or premature.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-2759. - TELECOMMUNICATIONS AND WIRELESS FACILITIES.

A. **Amateur (Ham) Radios.** In R and MX Districts, one amateur radio antenna structure and one whip antenna shall be permitted subject to the following restrictions:
    1. Such equipment shall be operated by a federally licensed amateur radio station operator who resides on the same property;
    2. No part of the antenna exceeds 65 feet in height or 30 feet above the height of the roof when fully extended;
    3. Antenna capable of a maximum extended height exceeding 40 feet, with the exception of whip antennas, are equipped with a motorized or hand cranked device to allow the antenna to be easily lowered when it is not in operation;
    4. When an amateur radio facility is not in operation, no part of any antenna, except for whip antennas, shall extend to a height that exceeds the maximum height permitted in the district; and
    5. No part of the antenna shall be located in the area between the front of a building and the front property line, in a required side yard or required rear yard, or in any parking or loading area.
B. All other Telecommunications and Wireless Facilities shall comply with the City's policy pertaining to said uses. Said policy shall establish standards and procedures to regulate the development, siting, installation, and operation of wireless telecommunications antennas and related facilities consistent with the applicable requirements of federal law. The regulations are intended to provide for the appropriate development of wireless telecommunication facilities within the city to meet the needs of residents, business-owners, and visitors while protecting public health and safety and preventing visual blight and degradation of the community's aesthetic character.

(Added Ord. 2015-39, § 1, eff. 1-9-16; Am. Ord. 2017-33, § 28, eff. 7-30-17).

ARTICLE 53 - CONDITIONAL USE PERMITS

SEC. 15-5301. - PURPOSE.

The Conditional Use Permit review process is intended to apply to uses that are generally consistent with the purposes of the district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties or adversely affect the City's infrastructure, the built or natural environment, City resources, or the City's ability to provide public services.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5302. - APPLICABILITY.

Conditional Use Permit approval is required for the following:

A. Uses specifically identified in Part II, Base and Overlay Districts, and/or any other section of this Code which requires a Conditional Use Permit.

B. Alcoholic beverage sales.

1. **Exception.** Within Downtown Districts, uses with alcoholic beverage sales shall not require a Conditional Use Permit, but shall comply with the requirements of the California Department of Alcoholic Beverage Control.

C. Any use with drive-in or drive-through facilities.

D. When a Conditional Use Permit is required for exceptions to certain development standards that are specifically identified in Part II, Base and Overlay Districts.

(Added Ord. 2015-39, § 1, eff. 1-9-16; Am. Ord. 2016-32, § 38, eff. 10-21-16).

SEC. 15-5303. - REVIEW AUTHORITY.

The Director shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this article. The Director may, at their discretion, refer any application that may have significant public interest to the Planning Commission for a decision. In the event of a referral, the Planning Commission shall hold a public hearing prior to making the decision.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5304. - APPLICATION REQUIREMENTS.

A. Applications for a Conditional Use Permit shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.

B. The Conditional Use Permit application shall be accompanied by a written narrative, operational statement, site plans, and other evidence in support of the applicable findings required by Section 15-5306, Required Findings.

C. The Director may require attachments of other written or graphic information, including, but not limited to, statements, numeric data, site plans, floor plans, and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Code.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5305. - PUBLIC NOTICE.

Public Notice shall be provided 10 days prior to the date of action pursuant to Section 15-5007.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5306. - REQUIRED FINDINGS.

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.

A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;
B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;
C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;
D. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5307. - CONDITIONS OF APPROVAL.

In approving a Conditional Use Permit, the decision-maker may impose reasonable conditions or restrictions deemed necessary to:

A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies and design guidelines adopted by the City Council;
B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;
C. Achieve the findings for a Conditional Use Permit listed in Section 15-5306, Required Findings; or
D. Mitigate any potential impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5308. - EXPIRATION.

An expiration date of seven years from the date of approval shall be established by the Review Authority, except as follows:

A. Uses which may have a substantial public interest may be given an expiration date of less than seven years.

B. Conditional Use Permits for permanent physical property improvements, such as building height, shall not h expiration date if deemed appropriate by the Review Authority.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5309. - APPEALS.

Conditional Use Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SEC. 15-5310. - MODIFICATIONS.

Conditional Use Permits may only be modified as provided for in Article 50, Common Procedures. Conditional Use Permits for projects that are anticipated to develop over the course of six years or more may require reallocation or adjustment to residential densities. Such adjustments may be processed through the modification procedures set forth in section 15-5015.

(Added Ord. 2015-39, § 1, eff. 1-9-16).