ORDINANCE NO. _____

MANDATORY IMPROVEMENT REQUIREMENTS

(Amending Chapter 16.08 of the Merced County Code)

The Board of Supervisors of the County of Merced, State of California, ordains as follows:

SECTION 0: ~~Struck through type~~ are deletions and <u>underscored type</u> are additions to the Merced County Code.

SECTION I: Chapter 16.08 of the Merced County Code is amended to read as follows:

Chapter 16.08

IMPROVEMENT REQUIREMENTS

Sections:

16.08.010 Purpose
16.08.020 Definitions
16.08.030 Provisions
16.08.040 Mandatory Improvement Requirements
16.08.050 Satisfaction of Improvement Requirements
16.08.060 Appeals
16.08.070 Enforcement

16.08.010 Purpose. The purpose of this chapter is to provide for the orderly development of the County of Merced through the adoption of improvement standards and to establish policies for when, which, and how improvements will be required for applicable permit or subdivision approvals within the unincorporated areas of the County of Merced.

16.08.020 Definitions.

A. Accessory Agricultural Structures: Agricultural buildings with the following uses: storage, livestock and poultry, shade structures, horticultural structures (greenhouses and crop production).

B. ASC: Agricultural Services Center <u>as described in the Merced County General Plan</u>.

C. Clear Zone: On roadways without curb and gutter or asphalt dikes, the Clear Zone is an area within the road right-of-way to remain free from fixed objects such as utility poles. On Local and Minor Collector roadways, the clear zone is that area which is within fifteen feet of the edge of the traveled way. On roadways with higher classifications, the clear zone is that area within twenty five feet of the edge of the traveled way.

D. Department of Public Works. The Board of Supervisors of the County of Merced working through the Director of Public Works and his assigned representatives.

E. Developer. Any person, firm, corporation, partnership, or agent thereof who has applied for a permit, subdivision<u>, or development of a SPZ or PD</u> within the County of Merced.

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F. Development Project. Any project involving either an Administrative Permit, Building Permit, Conditional Use Permit, Location and Development Permit, Minor or Major Subdivision application, or development of a SPZ zone or PD zone.

G. Fixed Object. Items defined as Fixed Objects include, but are not limited to: utility poles, headwalls, standpipes, irrigation boxes, trees, and large mail box structures. Items that are excluded from being defined as fixed objects because of their breakaway or accident absorbing design include, but are not limited to: streetlights, fire hydrants, street signs, guard rail, and approved mail boxes.

H. HIC: Highway Interchange Center as described in the Merced County General Plan.

I. Improvement Manuals: The two Improvement Manuals consist of "The Merced County Improvement Standards and Specifications" and "The Merced County Storm Drainage Design Manual".

J. Improvement Project: Any project, other than a development project, involving improvements that will be maintained by the County.

K. PD Zone: Planned Development Zone (See Chapter 18.33).

L. Roadway Plan Line: A Roadway Plan Line is an officially adopted alignment for a future roadway. The construction of conflicting structures is prohibited in an area covered by a Roadway Plan Line. (See Chapter 13.50).

M. RRC: Rural Residential Center.

N. SPZ: Special Planning Zone (See Chapter 18.32).

O. SUDP: Specific Urban Development Plan as described in the Merced County General Plan.

P. Traveled Way: The portion of the roadway for the movement of vehicles, exclusive of shoulders. More specifically, the edge of the traveled way of the outermost travel lane as shown in the Improvement Standards and Specifications.

16.08.030 Provisions.

A. Improvement Manuals. The Improvement Manuals defined in Section 16.08.020 shall be adopted by the Board of Supervisors by Resolution. The Improvement Manuals may be downloaded from the Department of Public Works website.

B. Changes to Improvement Manuals. The Director of Public Works is authorized to make changes to the Improvement Manuals as necessary to correct errors, modify construction practices, allow for the use of new or improved products, and to make revisions necessary to conform to law. Substantial changes to the Improvement Manuals shall be brought before the Board of Supervisors for adoption by Resolution.

C. Improvement Requirements. Improvements that are required as a result of this Chapter may be satisfied by either construction, posting acceptable security, or by qualifying for and obtaining a Deferment of Construction or waiver as specified in Section 16.08.050. All improvements to be constructed as a result of this Chapter shall be designed and constructed in accordance with the Improvement Manuals.

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Deleted: <#>PUD: Planned Unit Development (See Chapter 18.120).¶

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Deleted: Copies of the Improvement Manuals are to be available for purchase at the Department of Public Works. Persons purchasing one or both of these manuals will become registered holders of the manuals they purchase.

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1. Mandatory Improvement Requirements: The improvements specified in Section 16.08.040 are mandatory requirements for permit, subdivision, SPZ or PD approvals within the unincorporated areas of the County of Merced.

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2. Recommended Improvement Requirements: The Department of Public Works is authorized to recommend any improvements and/or dedication deemed necessary which falls outside the scope of Section 16.08.040. Recommended improvements are subject to the adoption or rejection of either the Planning Commission or the Board of Supervisors, whichever is the final approving authority for the type of permit or subdivision being requested.

D. Fees. The Department of Public Works shall be reimbursed, through the collection of fees, for the services listed in this subsection. The fee amounts shall be established by the Board of Supervisors as required by law and may be revised a maximum of once every fiscal year.

1. Land Development Applications: The Department of Public Works shall be reimbursed for reviewing permit applications associated with proposed land development. More specifically, the Department of Public Works shall be reimbursed for reviewing applications for Administrative Permits, Building Permits, Conditional Use Permits, Encroachment Permits, General Plan Amendments, the development of SPZ and PD Zones, Zone Changes, Flood Level Variances, Land Excavation Permits, Public Facility (Road right-of-way) Vacations and Termination of Maintenance, Major Subdivisions, Minor Subdivisions, and Road Name Changes.

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2. Environmental Document Review: The Department of Public Works shall be reimbursed for reviewing documents associated with environmental documents prepared as part of a Development Project..

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3. Improvement Plan Review and Construction Inspection: The Department of Public Works shall be reimbursed for reviewing improvement plans and associated submittals, meeting with developers or their assigned agents, preparing improvement agreements, providing construction inspection for those areas under the jurisdiction of the County, processing construction change orders, and coordinating acceptance of improvements.

   a. Fee Amount Determination: The fee amounts to be collected by the Merced County Department of Public Works for Improvement Plan Review and Construction Inspection for minor and major subdivisions shall be:

      Improvement Plan Review and Construction Inspection Fee: $505/lot.

   b. Payment of Fee: The Developer shall pay the required fee in two increments. Half of the fee shall be paid when Improvement Plans are first submitted to the Department of Public Works for review. The remaining half of the fee shall be paid either prior to the recordation of the final map or parcel map associated with the project or prior to construction of the project, whichever is earliest.

4. Miscellaneous Document Review and Processing: The Department of Public Works shall be reimbursed for processing subordination requests, soils report

waiver requests, deferments of construction, improvement waivers, reimbursement agreements, roadway impact agreements, and other miscellaneous documents. The fee for processing a subordination request is seventy six dollars ($76.00). The fee for processing a soils report waiver is seventy six dollars ($76.00). The fee for processing a deferment of construction is two hundred twenty dollars ($220.00). The fee for processing a reimbursement agreement is two hundred twenty dollars ($220.00). The fee for processing a Roadway Impact Agreement is two hundred twenty dollars ($220.00).

E. Deed Acceptance. The Director of Public Works is authorized to accept easement deeds and grant deeds for road right-of-way and/or Public Utility Easements on behalf of the Board of Supervisors. A Certificate of Acceptance shall be prepared and signed by the Director of Public Works for each easement and/or grant deeds accepted by the Director on behalf of the Board of Supervisors.

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16.08.040 Mandatory Improvement Requirements. The following Improvement Requirements are mandatory as stipulated in Section 16.08.030.C.1.

A. Improvement Levels: The three Improvement Levels listed below are required to be satisfied for the various types of permits or subdivisions as specified in Section 16.08.040.B. All improvements shall be designed and constructed in conformance with the Merced County Department of Public Works Improvements Standards and Specifications and the Merced County Department of Public Works Storm Drainage Design Manual.

1. **Improvement Level 1.** The following improvements are required:

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a. Road Right-of-Way.

Right-of-way shall be dedicated along existing and proposed roadways that either abut or traverse the project site. The ultimate width of the right-of-way shall be determined from an adopted Roadway Plan Line, an adopted Community Plan, or any other planning document that has been adopted by the Merced County Board of Supervisors to regulate and/or guide development. Development projects located within the adopted growth area of an incorporated City shall conform to the right-of-way requirements of the City. If no Community Plan has been adopted for a project area, the road design and right-of-way widths required for the adopted functional classification of roadways (as designated by the Merced County General Plan) shall be as shown in Chapter 4 of the Merced County Department of Public Works Improvement Standards and Specifications. In some cases, the Improvement Standards include special cross sections determined to be necessary for selected roadways. Additional right-of-way may be required along certain roadways and approaching intersections to accommodate bike lanes and/or turning lanes.

Property owners are required to dedicate right-of-way up to 40 feet in width as measured from the center of the ultimate right-of-way without any compensation. If more than 40 feet of right-of-way is necessary, the property owner will be required to dedicate the right-of-way and will be compensated for the value of the additional dedication. If the property is located within an area subject to a Bridge and Major Thoroughfare Fee, the compensation will be in the form of a credit towards payment of the required fee. The value of the credit will be based on the appraised value of the property based on an appraisal prepared by an independent appraiser. If the appraised

value exceeds the required fee or if the property is not subject to a Bridge and Major Thoroughfare Fee, the property owner will be monetarily compensated for the required dedication over 40 feet. If the County is unable to monetarily compensate the property owner, the County may choose, at the County's discretion, to waive the dedication requirement over 40 feet.

Any right-of-way over 40 feet required to be dedicated as a direct result of the circulation impacts caused by the development project will be required to be dedicated without any compensation.

Dedicated right-of-way shall be in the form of an easement, not fee title. The required documentation for the right-of-way dedication shall be prepared at the property owner's expense by a Land Surveyor registered in the State of California or a Civil Engineer licensed to practice land surveying in the State of California.

b. Utility Easements.

A ten (10) foot wide Public Utility Easement (PUE) shall be dedicated along existing and proposed roadways that either abut or traverse the project site. A ten (10) foot PUE shall be dedicated along both sides of all new roadways that are included as part of the development project.

Easements for other entities (such as an irrigation district or a community services district) may be required on a case by case basis as determined by the affected entity.

The required documentation for the easement dedication shall be prepared at the property owner's expense by a Land Surveyor registered in the State of California or a Civil Engineer licensed to practice land surveying in the State of California.

c. New Roadways & Existing Roadways.

The roadway structural section shall be designed according to the Caltrans Highway Design Manual. The roadway surface shall be asphalt concrete (AC).

i. Roadways within the boundary of an adopted Community Plan area, an adopted growth area of an Incorporated City, a Specific Urban Development Plan (SUDP), a Highway Interchange Center (HIC), or an Agricultural Service Center (ASC) shall be constructed with curb, gutter and sidewalk. Roadways in Industrial or Manufacturing zones may be exempt from sidewalk if sufficient off-street parking is provided.

ii. Collector roadways shall be constructed with vertical curb. Local roadways within the boundary of a Rural Residential Center (RRC) shall be constructed with rolled curb. Sidewalk is not required in a Rural Residential Center in areas developed with one unit per acre. Sidewalk is required in an RRC for development with a density greater than one unit per acre.

iii. The abutting half of all existing roadways shall be widened as measured from the center of the ultimate right-of-way. If the existing roadway is in poor condition, the existing roadway shall be reconstructed from the center of the ultimate right-of-way.

d. Street Lighting.

Deleted: Dedicated right-of-way or easements, including but not limited to Public Utility Easements, necessary to contain the Improvements that are to be constructed or relocated and are proposed to be maintained by either the County or another entity.

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<#>Proposed roadways abutting property being developed with an A-R zoning are exempt from constructing curbs, gutters, and sidewalks.¶
<#>Proposed roadways abutting property being developed with an Industrial or Manufacturing zoning are exempt from constructing sidewalk.¶
<#>The abutting half of all existing roadways shall be widened, as measured from the center of the ultimate right-of-way, to be in conformance with the requirements for proposed roadways as stipulated in Section 16.08.040.A.1.b.¶
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Street lights shall be installed along existing and new roadways. Form, annex to, or include into a lighting maintenance zone of benefit.

e. Storm Drainage System.

A storm drainage system shall be constructed to serve the project area. Form, annex to, or include into a drainage maintenance zone of benefit. Development projects proposing to discharge storm water runoff into a facility not under the jurisdiction of Merced County must obtain written approval from the agency with jurisdiction. The use of joint storm drainage facilities with adjacent land owners or projects should be considered where practical.

f. Road Maintenance.

i. Development projects that include the construction of new public roads shall be required to include the new roads into a road maintenance zone of benefit. Owners of property within the maintenance zone of benefit will be assessed an annual charge on their property tax bill for maintenance of public roads including, but not limited to: street sweeping, striping, sign maintenance, patching, crack filling, seal coats, asphalt overlays and other treatments, as well as curb, gutter and sidewalk repair.

ii. Development projects that include the construction of private roads shall provide for maintenance of the private roads through a homeowner's association or other mechanism acceptable to the Department of Public Works.

g. National Pollutant Discharge System (NPDES) Permit Program.

All development projects shall comply with the National Pollutant Discharge System (NPDES) permit program as regulated by the California State Water Resources Control Board.

h. National Clean Air Act.

All development projects shall comply with the San Joaquin Valley Air Pollution Control District Dust Control Plan (DCP) program rules and regulations approved by the U.S. Environmental Protection Agency.

i. Foundation and Soils Investigation Report.

Provide two original copies of a foundation and soils investigation report in conformance with Section 16.08.040.C.

j. Utilities.

i. All new extensions of electric, telephone or cable television facilities shall be installed underground.

ii. Existing overhead electric, telephone or cable television facilities that will cross any newly created lot line shall be replaced with underground facilities. This requirement excludes high-voltage electric transmission facilities that, in the opinion of the Director of Public Works, cannot be feasibly placed underground.

iii. Existing overhead electric, telephone or cable television facilities located along existing peripheral roadways that may either interfere with proposed improvements or obstruct traffic visibility requirements or are within the Clear

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Zone shall be either relocated or replaced with underground facilities at the developer's option.

k. Irrigation Facilities.

l. Existing irrigation facilities located within a development or along existing peripheral roadways that may either interfere with proposed improvements or obstruct traffic visibility requirements or are above ground level and within the Clear Zone or if required by the Irrigation District shall be either modified, relocated, or removed.

l. Landscaping.

Landscaping shall be developed along sound walls and other neighborhood walls and fences that are adjacent and parallel to public roads. Form, annex to, or include into a landscaping maintenance zone of benefit. Sound walls and neighborhood walls shall be included in the maintenance zone of benefit.

2. **Improvement Level 2.** The following improvements are required:

a. Road Right-of-way.

Right-of-way shall be dedicated along existing and proposed roadways that either abut or traverse the project site. The ultimate width of the right-of-way shall be determined from an adopted Roadway Plan Line, an adopted Community Plan, or any other planning document that has been adopted by the Merced County Board of Supervisors to regulate and/or guide development. Development projects located within the adopted growth area of an incorporated city shall conform to the right-of-way requirements of the City. If no Community Plan has been adopted for a project area, the road design and right-of-way widths required for the adopted functional classification of roadways (as designated by the Merced County General Plan) shall be as shown in Chapter 4 of the Merced County Department of Public Works Improvement Standards and Specifications. In some cases, the Improvement Standards include special cross sections determined to be necessary for selected roadways. Additional right-of-way may be required along certain roadways and approaching intersections to accommodate bike lanes and/or turning lanes.

Property owners are required to dedicate right-of-way up to 40 feet in width as measured from the center of the ultimate right-of-way without any compensation. If more than 40 feet of right-of-way is necessary, the property owner will be required to dedicate the right-of-way and will be compensated for the value of the additional dedication. If the property is located within an area subject to a Bridge and Major Thoroughfare Fee, the compensation will be in the form of a credit towards payment of the required fee. The value of the credit will be based on the appraised value of the property based on an appraisal prepared by an independent appraiser. If the appraised value exceeds the required fee or if the property is not subject to a Bridge and Major Thoroughfare Fee, the property owner will be monetarily compensated for the required dedication over 40 feet. If the County is unable to monetarily compensate the property owner, the County may choose, at the County's discretion, to waive the dedication requirement over 40 feet.

Any right-of-way over 40 feet required to be dedicated as a direct result of the circulation impacts caused by the development project will be required to be dedicated without any compensation.

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Dedicated right-of-way shall be in the form of an easement, not fee title. The required documentation for the right-of-way dedication shall be prepared at the property owner's expense by a Land Surveyor registered in the State of California or Civil Engineer licensed to practice land surveying in the State of California.

b. Utility Easements.

A ten (10) foot wide Public Utility Easement (PUE) shall be dedicated along existing and proposed roadways that either abut or traverse the project site. A ten (10) foot PUE shall be dedicated along both sides of all new roadways that are included as part of the development project.

Easements for other entities (such as an irrigation district or a community services district) may be required on a case by case basis as determined by the affected entity.

The required documentation for the easement dedication shall be prepared at the property owner's expense by a Land Surveyor registered in the State of California or Civil Engineer licensed to practice land surveying in the State of California.

c. Existing Roadways.

The abutting half of all existing roadways shall be widened as measured from the center of the ultimate right-of-way. If the existing roadway is in poor condition, the existing roadway shall be reconstructed from the center of the ultimate right-of-way. The roadway structural section shall be designed according to the Caltrans Highway Design Manual. The roadway surface shall be asphalt concrete (AC).

i. Roadways within the boundary of an adopted Community Plan area, an adopted growth area of an incorporated city, a Specific Urban Development Plan (SUDP), a Highway Interchange Center (HIC), or an Agricultural Service Center (ASC) shall be constructed with curb, gutter and sidewalk. Roadways in Industrial or Manufacturing zones may be exempt from sidewalk if sufficient off-street parking is provided.

ii. Collector roadways shall be constructed with vertical curb. Local roadways within the boundary of a Rural Residential Center (RRC) shall be constructed with rolled curb. Sidewalk is not required in a Rural Residential Center in areas developed with one unit per acre. Sidewalk is required in an RRC for development with a density greater than one unit per acre.

d. Storm Drainage.

Storm drainage runoff shall either be directed to an existing storm drainage system or the runoff shall be retained on the project site. The use of joint storm drainage facilities with adjacent land owners or projects should be considered where practical.

e. National Pollutant Discharge System (NPDES) Permit Program.

All development projects shall comply with the National Pollutant Discharge System (NPDES) permit program as regulated by the California State Water Resources Control Board.

f. National Clean Air Act.

Deleted: <#>Dedicated right-of-way or easements, including but not limited to Public Utility Easements, necessary to contain the Improvements that are to be constructed or relocated and are proposed to be maintained by either the County or another entity.¶

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Deleted: , to be in conformance with the requirements for proposed roadways as stipulated in Section 16.08.040.A.1.b.

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All development projects shall comply with the San Joaquin Valley Air Pollution Control District Dust Control Plan (DCP) program rules and regulations approved by the U.S. Environmental Protection Agency.

g. Foundation and Soils Investigation Report.

Provide two original copies of a foundation and soils investigation report in conformance with Section 16.08.040.C.

h. Utilities.

Existing overhead electric, telephone or cable television facilities located along existing peripheral roadways that may either interfere with proposed improvements or obstruct traffic visibility requirements or are within the Clear Zone shall be either relocated or replaced with underground facilities at the developer's option.

i. Irrigation Facilities.

Existing irrigation facilities located within a development or along existing peripheral roadways that may either interfere with proposed improvements or obstruct traffic visibility requirements or are above ground level and within the Clear Zone or if required by the Irrigation District shall be either modified, relocated, or removed.

3. **Improvement Level 3.** The following improvements are required:

a. Driveway Approach.

Construct new driveway approach(es) or improve existing driveway approach(es).

b. Road Right-of-way.

Right-of-way shall be dedicated along existing roadways that either abut or traverse the project site. The ultimate width of the right-of-way shall be determined from an adopted Roadway Plan Line, an adopted Community Plan, or any other planning document that has been adopted by the Merced County Board of Supervisors to regulate and/or guide development. Development projects located within the adopted growth area of an incorporated City shall conform to the right-of-way requirements of the City. If no Community Plan has been adopted for a project area, the road design and right-of-way widths required for the adopted functional classification of roadways (as designated by the Merced County General Plan) shall be as shown in Chapter 4 of the Merced County Department of Public Works Improvement Standards and Specifications. In some cases, the Improvement Standards include special cross sections determined to be necessary for selected roadways. Additional right-of-way may be required along certain roadways and approaching intersections to accommodate bike lanes and/or turning lanes.

Property owners are required to dedicate right-of-way up to 40 feet in width as measured from the center of the ultimate right-of-way without any compensation. If more than 40 feet of right-of-way is necessary, the property owner will be required to dedicate the right-of-way and will be compensated for the value of the additional dedication. If the property is located within an area subject to a Bridge and Major Thoroughfare Fee, the compensation will be in the form of a credit towards payment of the required fee. The value of the credit will be based on the appraised value of the property based on an appraisal prepared by an independent appraiser. If the appraised

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value exceeds the required fee or if the property is not subject to a Bridge and Major Thoroughfare Fee, the property owner will be monetarily compensated for the required dedication over 40 feet. If the County is unable to monetarily compensate the property owner, the County may choose, at the County's discretion, to waive the dedication requirement over 40 feet.

Any right-of-way over 40 feet required to be dedicated as a direct result of the circulation impacts caused by the development project will be required to be dedicated without any compensation.

Dedicated right-of-way shall be in the form of an easement, not fee title. The required documentation for the right-of-way dedication shall be prepared at the property owner's expense by a Land Surveyor registered in the State of California or Civil Engineer licensed to practice land surveying in the State of California.

c. National Pollutant Discharge System (NPDES) Permit Program.

All development projects shall comply with the National Pollutant Discharge System (NPDES) permit program as regulated by the California State Water Resources Control Board.

d. National Clean Air Act.

All development projects shall comply with the San Joaquin Valley Air Pollution Control District Dust Control Plan (DCP) program rules and regulations approved by the U.S. Environmental Protection Agency.

B. Specific Requirements for Permit and Subdivision Approvals.

1. Building Permits for the construction of a new structure or remodeling of an existing structure are subject to the following improvement requirements:

a. All building permits within a Community Plan area, adopted growth area for an Incorporated City, ASC, SUDP, RRC or HIC, including those for moving in a prefabricated structure, shall satisfy Improvement Level 2 requirements for the subject parcel.

b. Any building permit for the construction of a new commercial, manufacturing, industrial, or significant agricultural structure (including dairies, poultry ranches, agricultural goods storage warehouses and/or processing plants, and similar uses) or for remodeling an existing structure for a new commercial, manufacturing or industrial use may be subject to offsite road improvements over and above those required by this section, if in the opinion of the Director of Public Works, said use will substantially impact the road system; projects of this type and projects that will generate heavy truck traffic are subject to the requirements of Section 16.08.040.D.

c. All other building permits shall satisfy Improvement Level 3 requirements for the subject parcel.

d. EXEMPTIONS:

i. Building Permits for remodeling an existing residential dwelling or for the construction of an addition to an existing single family residential dwelling unit are exempt from Section 16.08.040.

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ii. Building Permits for the construction of an addition comprising of less than 500 square feet to an existing commercial, manufacturing, or industrial building are exempt from Section 16.08.040. However, the square footage of such building permits issued over a period of five years on any individual parcel shall be cumulatively considered toward the square footage threshold value.

iii. Building Permits in an A-1 or A-2 zone are exempt from this code unless the building permit is associated with a dairy, poultry ranch, an agricultural goods storage warehouse and/or processing plant, any commercial, manufacturing, industrial, or similar land use.

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2. Administrative Permits: At a minimum, Administrative Permits shall satisfy Improvement Level 3. If a building permit for a new structure will be required, Improvement Level 2 may be required pursuant to Section 16.08.040.B.1. Projects that will generate heavy truck traffic are subject to the requirements of Section 16.08.040.D.

3. Conditional Use Permits: At a minimum, Conditional Use Permits shall satisfy Improvement Level 3. If a building permit for a new structure will be required, Improvement Level 2 may be required pursuant to Section 16.08.040.B.1. Projects that will generate heavy truck traffic are subject to the requirements of Section 16.08.040.D.

Deleted: Conditional Use Permits will not be directly subject to the improvement requirements of this section. However, if a building permit will be required for the project proposed in the Conditional Use Permit, the approved use will, at the Building Permit stage, be subject to the improvement requirements of Section 16.08.040.

4. Minor and Major Subdivisions:

a. Major Subdivisions shall satisfy Improvement Level 1 requirements for the subject parcels.

b. Minor Subdivisions involving the construction of a new public or privately maintained road shall satisfy Improvement Level 1 requirements for the subject parcels.

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c. Minor Subdivisions involving the creation of designated remainder parcel(s) shall satisfy Improvement Level 1 requirements.

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d. Minor subdivisions shall satisfy Improvement Level 1 requirements for all parcels being created where:

i. Pursuant to the effective zoning, one or more of the proposed parcels being created may be further subdivided; and,

ii. The total number of parcels being created plus the number of potential additional parcels exceeds four.

e. All other minor subdivisions shall satisfy Improvement Level 2 requirements for the subject parcels.

f. Pursuant to the terms of any City/County agreement, the requirements of this section may be superseded by the requirements of the Incorporated City for major and minor subdivisions within the SUDP boundaries or adopted growth area of an Incorporated City.

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g. EXEMPTIONS:

i. Minor subdivisions on property zoned A-1 or A-2 are exempt from the requirement to widen existing roadways, construct storm drainage

improvements and driveway approach(es). However, dedication of right-of-way and Public Utility Easements is still required.

5. SPZ and PD Zone Projects: All projects located within a SPZ or PD zone shall satisfy Improvement Level 1 requirements.

C. Foundation and Soils Investigation Report.

Whenever a Foundation and Soils Investigation Report is required by this Chapter, it shall be of the following format:

1. The soils report shall be prepared by a Geotechnical Engineer or Civil Engineer registered in the State of California.
2. The soils report shall be based on adequate test borings and shall recommend appropriate construction techniques and/or constraints which are likely to prevent structural damage to the types of structures proposed to be constructed.
3. If the preliminary soils report indicates the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects, the Director of Public Works may require a soils investigation on each lot in the project.
4. The soils report shall contain the required information as stated in Section 2.03.A of the Merced County Improvement Standards and Specifications and Section 1.05.A of the Merced County Storm Drainage Design Manual.
5. Foundation and Soils Investigation Report Waiver. At the request of the Design Engineer, a waiver for all or parts of the required Foundation and Soils Investigation Report will be considered for approval by the Director of Public Works. If, however, the report is mandatory pursuant to the Director's interpretation of the International Building Code (IBC), a waiver will not be approved. In order for a waiver to be considered, one of the following is required:
   a. The Design Engineer shall submit a letter, signed and sealed with the Engineer's stamp, requesting a waiver and shall state that the soils on the project site is similar to that shown in a soils report that is currently on file at the Department of Public Works. The existing report shall have been conducted for a project within the general vicinity of the proposed project and shall have similar surface soil conditions as determined by a field inspection of the site by an approved representative of the Department of Public Works. If any critical soil types are indicated in the existing report that may require special construction, a waiver will not be granted.
   b. The Design Engineer shall submit a letter, signed and sealed with the Engineer's stamp, requesting a waiver and shall state that due to his personal knowledge of soils on the project site, a waiver should be granted. The Design Engineer shall recommend, in the same letter, the types of construction required as a result of the soils on the project site. The Developer of the project shall arrange for a backhoe inspection of the project site with the Design Engineer and an approved representative of the Department of Public Works in attendance. If any critical soil types are encountered during the backhoe inspection that may require special construction, a waiver will not be granted.

D. Truck Impacts to Rural Roads.

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Deleted: <#>Minor subdivisions that are required as a result of Section 17.04.074 of this code are exempt from Section 16.08.040.¶
<#>Minor subdivisions that will not create a new building site are exempt from this Section.¶
PAID Applications: All PAID applications shall satisfy Improvement Level 1 requirements for the subject parcel.

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<#>PUD Applications: All PUD applications shall satisfy Improvement Level 1 requirements for the subject parcel.¶

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Roads in rural areas of Merced County have not been constructed to support heavy truck traffic generated from new developments. Projects that generate heavy truck traffic on rural roads will increase the rate of deterioration of the pavement structural section. This increased rate of deterioration will reduce the service life and the desired performance objectives of Merced County roadways.

The effects on pavement life from passenger cars, pickups, and two-axle trucks are considered to be negligible. However, many projects have the potential to generate heavy truck traffic. Heavy trucks, for the purpose of this section, include 10-wheel dump trucks, trucks with 4, 5 or more axles or any combination of a truck and trailer with 4, 5 or more axles. Typical projects that generate heavy truck traffic include: dairies, poultry ranches, agricultural processing centers, gravel mining and/or processing operations, commercial centers, and industrial developments.

The California Environmental Quality Act (CEQA) requires that proposed projects assess, among other things, their potential impacts to public services. If a project has the potential to reduce the service life and the desired performance objectives of Merced County roadways, then the project should be required to mitigate or offset the adverse impact.

1. In order to avoid any significant impact that a project may have on the structural section of Merced County roadways, the following conditions of approval shall be applied to projects that generate an average of one or more loaded heavy truck trips per day:

   - The applicant shall provide a roadway impact evaluation, prepared by a registered Geotechnical Engineer or Civil Engineer, to determine the potential impact that the project will have on Merced County roadways. This evaluation should take into consideration the truck traffic generated from the project, the truck routes, truck types and weights, as well as the structural integrity of the roadways along the truck routes. Should any roadway be identified that will be significantly impacted by the project (significantly reduced service life, etc.), then the applicant shall pay a "fair share" contribution into the Merced County Road Fund to offset the impact.

   - In lieu of performing a roadway impact evaluation, the applicant may enter into a Roadway Impact Agreement with Merced County. The roadway impact agreement will stipulate that the project applicant shall keep accurate records of all of the loaded heavy trucks that either enter or exit the project site. Once every year for the life of the project, the applicant shall contribute $2.50 into the Merced County Road Fund for every loaded heavy truck that either enters or exits the site (empty trucks are not to be counted). If the project generating the impact ceases to exist, the roadway impact agreement will become void.

2. Additional conditions of approval may be required on a case by case basis for projects that generate truck traffic to provide for improvements to roadways within the immediate vicinity of the project site.

16.08.045 Reimbursement Agreements. This section is based on the provisions contained within Sections 66485 through 66487 of the California Government Code (Subdivision Map Act).

A. A developer may be required to install improvements that contain supplemental size, capacity, number, or length for the benefit of property not within the development project.

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B. The County shall enter into an agreement with the developer to reimburse the developer for that portion of the cost of those improvements, including an amount attributable to interest, in excess of the construction required for the development project.

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C. In order to pay the costs as required by the reimbursement agreement, the County may elect to use one of the following methods:

1. Collect from other persons, including public agencies, using such improvement for the benefit of real property not within the development project, a reasonable charge for such use; or,

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2. Contribute to the developer that part of the cost of the improvements that is attributable to the benefit to real property outside the development project and levy a charge upon the real property benefited to reimburse itself for such costs, together with interest thereon, if any, paid to the developer; or,

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3. Establish and maintain local benefit districts for the levy and collection of such charge or costs from the property benefited.

D. If the reimbursement agreement is prepared to cover improvements under the jurisdiction of an agency other than Merced County, the cost for preparing a reimbursement agreement is stipulated in Section 16.08.030.D.4.

Deleted: shall be two hundred dollars ($200.00)

16.08.050 Satisfaction of Improvement Requirements. Improvements that are required as a result of this Chapter shall be satisfied by either construction or by posting Improvement Security. However, if the findings listed in Section 16.08.050.B or C can be made, then a Deferment of Construction or Waiver may be obtained to satisfy the improvement requirements. Whenever improvement requirements are to be satisfied by either construction or posting Improvement Security, the Developer shall enter into an Improvement Agreement with the Department of Public Works.

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A. Improvement Security. If a Developer wishes to receive the permit or record the subdivision map prior to the improvements being constructed and accepted for maintenance, the Developer shall provide security to guarantee the satisfactory completion of the improvements. The types and amounts of improvement security that are acceptable to the Department of Public Works are as follows:

1. Security for Minor and Major Subdivision Improvements: Improvement security for minor subdivisions shall be in conformance with Section 17.12.130 of this Code. Improvement security for major subdivisions shall be in conformance with Section 17.08.140 of this Code.

2. Security for other permits: Improvement security shall be one of the following:

a. A cashier's check in the amount of 100% of the total estimated construction cost shall be deposited at the Department of Public Works; or,

b. A certified copy of a fully executed contract between the Developer and a qualified Contractor providing for the construction of the required improvements shall be submitted to the Department of Public Works. The contract shall state that the Contractor has prepaid for the work to be done and shall state that the improvements are to be constructed within the time frame established in the Improvement Agreement; or,

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c. Security provided may be in conformance with Section 17.12.130 or Section 17.08.140 of this Code.

B. Deferment of Construction. In certain circumstances, a Deferment of Construction for all or portions of the required improvements may be granted by the Director of Public Works. Deferments of Construction do not eliminate the responsibility for constructing improvements, but allow for the improvements to be constructed at some future date. Deferments of Construction cannot be granted for officially adopted mitigation measures. One of the following findings should be satisfied before a Deferment of Construction is granted:

1. A deferment may be granted where the Department of Public Works determines that it is impractical to install the required improvements due to the existence of a physical constraint or the potential creation or intensification of a storm drainage problem which can only be solved through construction coordination with the development of an abutting parcel or the construction of an area-wide improvement project.

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2. A deferment may be granted when the Department of Public Works determines that construction of the required improvements would be more practical to be coordinated with the development of an abutting parcel or the construction of an area-wide improvement project.

Whenever a Deferment of Construction is entered into, a lien is created on the property being developed. The Director of Public Works is authorized to endorse subordination agreements for liens that were created as a result of a recorded Deferment of Construction. However, liens may be subordinated only if the Director of Public Works is assured that the installation of the required improvements will not be jeopardized. The burden will be upon the applicant to prove to the Director of Public Works that the lien will not be jeopardized.

C. Waivers of Improvements. Under extraordinary circumstances, improvements required by Section 16.08.040 may be waived by the Director of Public Works where all of the following findings can be made:

1. The improvements required are not necessary to mitigate potential drainage or traffic problems that will be either created or increased as a direct result of the proposed Development Project; and,

2. It is not appropriate that the construction of the required improvements be deferred to some future date: and,

3. As a result of extraordinary circumstances stemming from the physical configuration of the property being developed, the required improvements are clearly excessive.

16.08.060 Appeals.

A. Appeal of Improvement Requirements:

1. The improvements specified in Section 16.08.040 are mandatory requirements and no deviation may be granted by appeal or at any hearing level. Satisfaction of Improvements that are required as a result of this Chapter shall be pursuant to Section 16.08.050.

2. The improvements required under Section 16.08.030.C.2 are discretionary and may be appealed pursuant to the provisions of Section 17.04.090 or 18.50.100.

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B. Appeal of Deferments of Construction: Any person, firm, or corporation affected or aggrieved wit the action of the Department of Public Works concerning whether or not a Deferment of Construction is granted or denied under the authority of Section 16.08.050.B may appeal to the Board of Supervisors. Appeals shall be in writing and shall be submitted to the County Clerk within 5 working days after the determination of granting or denial of a Deferment of Construction has been made by the Director of Public Works.

C. Appeal of Subordination of Liens: Any person, firm, or corporation affected or aggrieved with the action of the Department of Public Works concerning whether or not a Subordination is granted or denied under the authority in Section 16.08.050.B may appeal to the Board of Supervisors. Appeals shall be in writing and shall be submitted to the County Clerk within 5 working days after the determination concerning the granting or denial of a Subordination has been made by the Director of Public Works.

D. Appeal of Waivers of Improvements: Any person, firm, or corporation affected or aggrieved with the action of the Department of Public Works concerning whether or not a Waiver is granted or denied under the authority in Section 16.08.050.C may appeal to the Board of Supervisors. Appeals shall be in writing and shall be submitted to the County Clerk within 5 working days after the determination concerning the granting or denial of a Waiver has been made by the Director of Public Works.

16.08.070 Enforcement. The Roads Division of the Department of Public Works is established as the lead division in connection with the enforcement of this Chapter.

The Buildings Division of the Department of Public Works is directed to obtain written confirmation from the Roads Division that improvements required in connection with this Chapter have been secured prior to issuance of any permit.

SECTION II: EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect sixty (60) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Merced, State of California.

SECTION III: SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is for any reason held invalid, such invalidity shall not affect other provisions or applications thereof and to this end the provisions of this Ordinance are severable.

Introduced at a regular meeting of the Board of Supervisors held on the ____ day of _____, 2008, and passed and adopted by the Board of Supervisors of the County of Merced, State of California, on the ____ day of _____, 2008 by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

_____
Kathleen M. Crookham
Chairman of the Board of Supervisors
County of Merced,
State of California

ATTEST:

_____
County Clerk and Ex-Officio Clerk of
The Board of Supervisors,
County of Merced,
State of California

APPROVED AS TO LEGAL FORM
JAMES N. FINCHER
MERCED COUNTY COUNSEL

By: _____
Deputy