



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247

Tuesday, March 13, 2018 @ 6:00PM

Page 1

CALL TO ORDER:	6:00pm
ROLL CALL:	Council Members Velasquez, Watson, Cortes, Mayor Pro Tem Salinas & Mayor Kimball
PLEDGE:	Mayor Kimball
INVOCATION:	Lindsay United Methodist Church
PUBLIC COMMENT	The public is invited to comment on any subject under the jurisdiction of the Lindsay City Council, including agenda items, other than noticed public hearings. Comments shall be limited to three minutes per person, with 30 minutes overall for the entire comment period, unless otherwise indicated by the Mayor. Participants speak at the stand after clearly stating their name for the Clerk.

1 COUNCIL REPORTS Council Members	City Council Members report on recent, current or upcoming events, activities or matters.
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2 LHS STUDENT REPORT Denise Macias	Student reports on recent, current or upcoming events, activities or matters related to the High School.
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3 STAFF REPORT Bill Zigler, City Manager	City Manager reports on recent, current or upcoming events, activities or matters.
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4 CONSENT CALENDAR Mayor Kimball Agenda Packet Pages 1-12	1. City Council Meeting Minutes for February 27, 2017 2. Warrant List for February 23, 2018
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5 ACTION ITEM Bill Zigler, City Manager Agenda Packet Pages 13-15	Support for Eagle Mountain Casino Relocation Authorize the Mayor to sign a letter of support for the relocation of the Eagle Mountain Casino from its current remote location on tribal lands to tribal-owned land near the Porterville airport.
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6 ACTION ITEM Council Member Cortes	Proclamation Outstanding Citizen Recognition
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7 RESOLUTION 18-13 Council Member Cortes Agenda Packet Pages 16-89	DACA Resolution of Support A Resolution of support for Deferred Action for Childhood Arrivals (DACA)
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Materials related to an Agenda item submitted to the legislative body after distribution of the Agenda Packet are available for public inspection in the office of the City Clerk during normal business hours. Complete agenda is available at www.lindsay.ca.us. In compliance with the Americans with Disabilities Act & Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the office of the City Clerk at (559) 562-7102 x 8020. Notification 48 hours prior to the meeting will enable the City to ensure accessibility to this meeting and/or provision of an alternative format of the agenda and documents in the agenda packet.



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247

Tuesday, March 13, 2018 @ 6:00PM

Page 2

8 ACTION ITEM	Hermosa Street/Westwood Avenue Roundabout Project
Mike Camarena, City Services Agenda Packet Pages 90-92	Authorize Release of Notice of Bid documents for the proposed roundabout at Hermosa St. and Westwood Ave.
9 ORDINANCE No. 563	Ordinance No. 563 - Second Reading
Chief Hughes Agenda Packet Pages 93-110	Add Municipal Code Chapter 1.18 Administrative Citations, Sections 1.18.010 Through 1.18.150 to enforce municipal codes within the city.
10 ORDINANCE No. 564	Ordinance No. 564 – Request to Withdraw
Chief Hughes Agenda Packet Pages 111	Amend Municipal Code Title 8 Health and Safety, Chapter 8.22 Fireworks, Section 8.22.140 Violations, to enforce Administrative Citations.
11 ORDINANCE No. 565	Ordinance No. 565 – Second Reading
Chief Hughes Agenda Packet Pages 112-117	Add section to the municipal Code Chapter 8.05 Smoking Regulations, Section 8.05.170 Smoking and Tobacco use in City Parks to prohibit discharge of any weapon within the City of Lindsay.
12 ORDINANCE No. 566	Ordinance No. 566 – Second Reading
Chief Hughes Agenda Packet Pages 118-123	Add section to the Municipal Code Title 9 Public Peace, Morals and Welfare, Chapter VII. Weapons, Section 9.96 Discharge to prohibit discharge of any weapon within the City of Lindsay.
13 FUTURE AGENDA ITEMS	Council members request items for future agendas.
Council Member	
14 EXECUTIVE SESSION	No executive session
15 ADJOURN	Council adjourns meeting. The next Regular City Council meeting will be held at 251 E. Honolulu Street, Lindsay at 6:00PM on March 27, 2018.
Mayor Kimball	

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LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247

Tuesday, February 27, 2018 @ 6:00PM

Page 8358

- CALL TO ORDER: 6:00pm
- ROLL CALL: Council Members Velasquez, Watson, Cortes, Mayor Pro Tem Salinas & Mayor Kimball
Present: All Present
- PLEDGE: Council Member Velasquez
- INVOCATION: Pastor Chris Smith, Lindsay Church of the Nazarene
- PUBLIC COMMENT: The public is invited to comment on any subject under the jurisdiction of the Lindsay City Council, including agenda items, other than noticed public hearings. Comments shall be limited to three minutes per person, with 30 minutes overall for the entire comment period, unless otherwise indicated by the Mayor. Participants speak at the stand after clearly stating their name for the Clerk.

Speaker	Comments
Eric Sinclair	Discussed a robot tax and support for Bill Gates' idea to tax the robots. Commented on school shootings and his work on homeland security.
Sandy Perez	Congratulated five Lindsay learners for winning the State Cup, winning first place out of 164. As a parent, she has been struggling for field space. Encouraged the City Council to turn the golf course into a soccer complex because they do not have a home field. They have to go to Visalia to play. They travel away to play and take their money elsewhere because there are not facilities here. The parents have built soccer goals and mark the fields to help the boys have a chance to play.
Faustino Perez	Has worked with the City and the school to find places to play. After many years, the teams had a chance to use the turf fields. As of next week, they will start their sixth year of their league. That is 450 kids playing. Every kid gets to play even if they cannot pay the registration fees. They sponsor kids. Requests the kids have safe place to play. Plans to continue to coach and facilitate for years.
Adriana Andrade	Thanked the council and city staff for the potential soccer fields. There would be hundreds of children and people involved instead of just a few playing golf. There are not fields for kids to play. The teams take up the free area in the parks right now. There are so many good children who want to play. There have been students at the high school who have received soccer scholarships.
Mari De La Fuente	Has heard the negative comments about soccer. The City has baseball fields but no soccer field. It is expensive and difficult to use the high school fields. There are many children who want to play. People of all ages play soccer and it can bring in revenue.
Juan Vasquez & Baseball Board	In charge of baseball this year. Introduced his board members for the baseball league. They are being charged to use the olive bowl when they are there to do service to the field. They are happy to maintain the fields, but are charged to open the field up. Charged for game and practice is appropriate, but they have concerns about being charged for time they spend maintaining. They did not plan on the cost of maintenance. Their vision is to make it free to the children in the future. Would like to bring baseball back to Lindsay. They have to wait for a student to open the gate for them.
Trudy Wischemann	Would like the Council to hold off making decisions tonight about recreation. Does not believe the proposal is responsible.
Gerardo	Coaches soccer. They have to travel a lot to take kids to games. Sports is so important to kids. Told the story about his kids growing in Lindsay and playing in Lindsay. These little kids need to be in sports, to have a clear mind and to have the help from sports. Everywhere they go they see nice complexes and all the kids playing. Lindsay town needs a soccer complex.
Anna Lopez	Parents and families struggle to find space to play. Having a new complex would be a great thing. It is very important as a parent to have the space because they don't have access to other sports fields. The kids are eager to grow.
Else	Encouraged Council to see what a practice is like in the evening when the kids play in the dark.
Councilmember Velasquez	Made motion to move the soccer item to space number 5 following the consent calendar. Seconded by Mayor Pro Tem Salinas. Approved.



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247

Tuesday, February 27, 2018 @ 6:00PM

Page 8359

1 COUNCIL REPORTS

Council Members

City Council Members report on recent, current or upcoming events, activities or matters

Speaker	Comments
Velasquez	Nothing
Watson	Nothing
Cortes	Expressed appreciation for public safety, LUSD and community work to calm the public related to school safety. Spring Sports are very active right now. Skimmers practice starts in April. LHS boys' and girls' teams are league champions and making a run for valley championships. Would like council to support DACA like the Porterville City Council did. Would like a City newsletter or magazine to inform the community members about what is happening around town through collaboration with other community leaders.
Salinas	Nothing
Kimball	Single countywide oversight board to replace the City's successor agency oversight board. Shared information about Eschol M. Hammond photography gallery at the museum. Shared information about a St. Patrick's Day dinner on 3/17. Recognized Bret Harmon, City Clerk and Finance Director, for his service to the City.

2 LHS STUDENT REPORT

Denise Macias

Student reports on recent, current or upcoming events, activities or matters related to the High School

Speaker	Comments
Macias	Sick – not in attendance

3 STAFF REPORT

Bill Zigler, City Manager

City Manager reports on recent, current or upcoming events, activities or matters

Speaker	Comments
Zigler	The City's new website is up and running. Dr. Seuss reading day is this Friday. Have received 13 applications for the Finance Director position.

4 CONSENT CALENDAR

Mayor Kimball

Agenda Packet Pages 1-9

1. City Council Meeting Minutes for February 13, 2018
2. Warrant List for February 20, 2018
3. 2018 Orange Blossom Festival Advertisement

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Cortes	Watson	Yes	Yes	Yes	Yes	Yes	5-0 Approved

5 RESOLUTION 18-11

Brian Spaunhurst, Asst. Planner

Agenda Packet Pages 10-15

Public Hearing and Resolution 18-11: Conditional Use Permit No. 18-04

To establish a new restaurant that would include the sale of alcohol in the Central Commercial (CC) Zoning District.

Speaker	Comments
Spaunhurst	O-Sushi ABC License requesting beer and wine license for the restaurant. Also wants to operate karaoke. Brian reviewed the staff report for the conditional use permit.
Salinas	Asked question about having music not after 10:00.



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247

Tuesday, February 27, 2018 @ 6:00PM

Page 8360

Spaunhurst	Music decibels reduces at 10:00PM. It does not prohibit music.
Cortes	Is this a chain restaurant?
Spaunhurst	This is a family-run restaurant with the other location in Los Angeles.
Watson	If the sports complex West of 65 comes in, then we will see more of these.
Public Hearing	No comments in favor or opposition.
Kimball	Closed public hearing.
Salinas	Asked about time frame
Spaunhurst	As soon as possible

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Velasquez	Cortes	Yes	Yes	Yes	Yes	Yes	5-0 Approved

6 RESOLUTION 18-12

Michael Camarena, City Services

Agenda Packet Pages 16-40

2018 Contract Year Temporary 215 Water Service Contract.

Authorizing the Mayor to sign 2018 Contract Year Temporary 215 Water Service Contract No. 18-WC-20-5180, Friant Division, Central Valley Project (CVP), California

Speaker	Comments
Camarena	Reviewed the staff report with Council. Explained Section 215 water. It will be available for a short time frame.
Watson	Do we know about the acre feet we might have available?
Camarena	We do not know. The City would process it through the water treatment plant. It would allow the City to stretch the use of other water.

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Salinas	Watson	Yes	Yes	Yes	Yes	Yes	5-0 Approved

7 ORDINANCE No. 563

Chief Hughes

Agenda Packet Pages 41-58

Ordinance No. 563 (First Reading)

Add Municipal Code Chapter 1.18 Administrative Citations, Sections 1.18.010 through 1.18.150 to enforce municipal codes within the city.

Speaker	Comments
Chief Hughes	Introduced Marsha Buelna as the Code Enforcement officer.
Buelna	Presented Codes Section 1.18.010 to 1.18.150. Presented background on the purpose, authority, penalties, procedures, consequences, benefits/impacts,
Salinas	What about warnings?
Buelna	Gives warnings (oral or written citation).
Zamora	Local appeals go to City. Then to small claims. If it is significant, then it would go to superior court.
Cortes	Have heard good things about how Buelna has worked with people. Looking for compliance.

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Cortes	Watson	Yes	Yes	Yes	Yes	Yes	5-0 Approved first reading

8 ORDINANCE No. 564

Chief Hughes

Agenda Packet Pages 59-62

2018-03-13 Lindsay City Council Agenda Page 3

Ordinance No. 564

Amend Municipal Code Title 8 Health and Safety, Chapter 8.22 Fireworks, Section 8.22.140 Violations, to enforce Administrative Citations.



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247
 Tuesday, February 27, 2018 @ 6:00PM

Page 8361

Speaker	Comments
Buelna	Described prohibited acts and violations.
Hughes	Fees are based on the fee schedule in Charter
Zigler	Staff can come back later with the changes to the fee schedule.
Zamora	There are options.

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Salinas	Cortes	Yes	Yes	Yes	Yes	Yes	5-0 Approved first reading

9 ORDINANCE No. 565

Chief Hughes
 Agenda Packet Pages 63-69

Ordinance No. 565

Add section to the Municipal Code Chapter 8.05 Smoking Regulations, Section 8.05.170 Smoking and Tobacco use in City Parks to prohibit smoking within city parks.

Speaker	Comments
Buelna	Smoking and tobacco use in City Parks – parks will be smoke free. Described prohibited acts. Defined City Park. Described benefits and impacts.
Salinas	Does the reference to plant mean cannabis?
Buelna	Yes.
Council	What about vaping?
Velasquez	Some people have switched from traditional cigarettes to electronic cigarettes.
Zamora	Council will need to enumerate the smokeless, unlit tobacco, vaping if it wants it in the ordinance. Can include language if the Council wishes it.
Hughes	Recommend including vaping.
Cortes	Including vaping will make it more specific.
Zamora	Add the following to Prohibited Acts’ first line after tobacco-related product: the possession of a lighted or burning tobacco, or tobacco-related product, or any other smokeless, tobacco, vaping device, e-cigarette
Watson	Moved for acceptance with the inclusion of language listed in Zamora statement immediately above.

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Watson	Cortes	Yes	Yes	Yes	Yes	Yes	5-0 Approved first reading

10 ORDINANCE No. 566

Chief Hughes
 Agenda Packet Pages 70-75

Ordinance No. 566

Add section to the Municipal Code Title 9 Public Peace, Morals and Welfare, Chapter VII. Weapons, Section 9.96 Discharge to prohibit discharge of any weapon within the City of Lindsay.

Speaker	Comments
Buelna	Listed prohibited items and what is permitted. Described the benefits for the community,
Watson	Declared first reading

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Watson	Salinas	Yes	Yes	Yes	Yes	Yes	5-0 Approved first reading



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247
 Tuesday, February 27, 2018 @ 6:00PM

Page 8362

11 ACTION ITEM

Bill Zigler, City Manager
 Agenda Packet Pages 76-80

Soccer Sports Park Development at City Golf Course
 Conversion of City Golf Course to Soccer Sports Park.

Speaker	Comments
Zigler	Reviewed a presentation with City Council detailing the cost of the golf course. It costs \$153 per round of golf. Staff reached out to 25 public golf courses. None of the public are profitable. Compared to Porterville, which is \$1.2MM in the hole for operating its golf course. Reviewed the \$330K in grant funds available for park improvements only through June 1 st . Reviewed conversation with State, which will not permit the extension of the grant funds but will allow transfer to another field. Discussed opportunities for economic development. Project would be revenue neutral. Draft budget shows sufficient funds to create the soccer complex.
Cortes	Who would chalk the field?
Camarena	Contractors would come in to level the fields to allow for drainage. Marking the fields would be the City's responsibility at first, then teams could chalk
Watson	Could the City move some lights from elsewhere to these fields?
Zigler	The movement of utilities is expensive.
Velasquez	Confirmed the costs associated with the golf course. Continuing with the golf course would be less than. It would cost the City 22,000.
Salinas	Would the cost be less with soccer fields?
Zigler	It would be less expensive because it would be easier to mow.
Salinas	Could the City keep the putting green at hole #1 for people. There are few people who use them. Would like to see the conduit in for lighting for future use. Would look for light options.
Kimball	Has the City considered improvements to Harvard Park?
Zigler	The irrigation pump and its needed repairs is the issue at Harvard. The City is hoping to use Harvard Park as a soccer field.
Velasquez	Reviewed experience on City Council and experience coaching soccer, volleyball and softball and drive to join Council to ensure recreation opportunities. Has seen evolutions of sports in the City as families come in and out of the programs. Does not believe the Council is ready to move forward to find ways to help everyone. Eliminating one sport to promote another is not the right decision. Being against this project does not make him against soccer. A better option would be a recreation district to raise funds for the future. Need diverse recreational activities.
Cortes	Need to take advantage of the grant now, we will lose it. Interested in a sports committee. Begin with this project and then move on to others. She hears the students' frustration in not having space.
Watson	We go to Exeter to play golf. The City of Lindsay has something special in the community in regard to soccer but do not have the facilities to have the growth. There are few people playing golf. Fiscally, we cannot let the grant money go back. This is a unique opportunity to be in the black for once on something. The biggest problem will be parking.
Velasquez	Reflected on the time when soccer interested dropped in the City. This a chance to upgrade the golf course to be the supreme golf course in the County.
Cortes	There has been a shift in the population in the community. This will be an opportunity to improve the recreation as more people move to Lindsay.
Watson	Reviewed how a recreation district would work, its requirement to secure funding through taxation and what it would do for the City. Soccer is one of the three sports that is growing in popularity. Golf interest is declining.
Velasquez	Golf is a multi-generational game. At some point your children will not be able to play soccer. You can play golf when you are older. Posted information on social media and heard keep it if it works. Does not want golf to die out. The Council listens to the community.
Cortes	Wishes more golfers could have been here tonight. There are many memories about golf, but memories will not get us to where we need to be.



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247
 Tuesday, February 27, 2018 @ 6:00PM

Page 8363

Salinas	Would like to do the project as inexpensively as possible to have some money left over to do other improvements. There is still work to do elsewhere. We don't have spend all of it on this.
Watson	Recreation district would help pay for other recreation activities in the future.
Salinas	He helped bring in bleachers to McDermont. We need to get rid of the wood bleachers and replace with aluminum ones. The recreational district would be a solution.
Zigler	It would cost to get a recreation district. The City needs to keep in mind the fiscal condition of the City.
Wischemann	Has questions about costs. Does not understand how it works.
Kimball	Has enjoyed having a golf course in the City. Knows it does not pay its way in the community. Uncomfortable with a quick decision. Recognizes the fiscal condition. Would like to see a good soccer field at Harvard Park.
Cortes	We are representing the community and their hearts.
Salinas	Would like to protect the green space.
Harmon	Shared information about the research on who is using the golf course and what soccer does for children and people.
Watson	Looking at soccer as a major priority. This is a unique opportunity.
Salinas	Council discusses topics with others before coming to council. All of that input, research and analysis is all part of the homework in preparation for considering and approving things. We take it all in consideration. We do not do this lightly.
Perez	Wants the cost to be affordable, not for free. It is a volunteer run organization. Have worked with the school and City. Make it a sports complex. The school and City need to get together and work something out.

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Cortes (5 fields not 6)	Watson	No	Yes	Yes	Yes	No	3-2 Approved

12 ACTION ITEM

Bill Zigler, City Manager
 Agenda Packet Pages 81-92

TCAG TCTA Measure R Amended Settlement Agreement

Authorize the Mayor to sign the TCAG Tulare County Transportation Authority (TCTA) Measure R Amended Settlement Agreement.

Speaker	Comments
Zigler	Presented the staff report to Council.
Watson	Asked about cost of interest.
Velasquez	Expressed appreciation for TCAG.
Kimball	Council Member Velasquez's expression was not reported as it was meant. Some have asked questions about it.

Motion & Vote

1 st	2 nd	Velasquez	Watson	Cortes	Salinas	Kimball	Result
Velasquez	Watson						5-0 Approved by minute order

13 ACTION ITEM

Bill Zigler, City Manager
 Agenda Packet Pages 93-103

Review of Lindsay High School Stadium Joint Use Agreement

Review and provide direction regarding the continuance of the Lindsay High School Stadium Joint Use Agreement

Speaker	Comments
Zigler	Reviewed comments from the public regarding frustration use of the fields. The City is not in a financial condition to meet all the duties in the agreement. Reviewed the staff report, including comments about areas in the current agreement. The City is not in a position to gift free use while the City still provides workers.



LINDSAY CITY COUNCIL MEETING: REGULAR MEETING

251 E. Honolulu St., Lindsay, CA 93247

Tuesday, February 27, 2018 @ 6:00PM

Page 8364

Velasquez	Did not find termination language in the MOU. First inclination was to terminate the agreement. If people move to new soccer fields, then the City would still have to pay to operate the turf fields.
Cortes	Understands the Lindsay learners can use the facilities if the learners call the school district to open.
Watson	The City needs to separate from the school in this. It needs to be the school's responsibility solely.
Velasquez	Discussed separating from the school to focus on the City's fields.
Watson	Need to focus on the City's assets/fields.
Zigler	We have not been able to live up to this commitment. This MOU covers the soccer fields and the gyms.
Velasquez	It is time to separate and let the school take care of it. See benefit in terminating.
Zigler	Staff will approach the school district to terminate. If the school district counters, then staff will return to Council with the counter offer.

14 ACTION ITEM

Cannabis Update and discussion

Bill Zigler, City Manager

Speaker	Comments
Zigler	Presented information about Cannabis with a draft Lindsay ordinance, relying heavily on what other Cities have done. Showed map of Heavy Industrial Properties. Is preparing ordinance and sales tax ordinance for council to review in a study session.
Zamora	Encouraged council to continue to think about it, what they want to see, etc.

15 FUTURE AGENDA ITEMS

Council members request items for future agendas.

Council Members

Speaker	Comments
Cortes	DACA resolution supporting resolution
Cortes	Tom Spurlock recognition
Kimball	Orange Blossom Parade logistic

16 EXECUTIVE SESSION

No executive session

17 ADJOURN

Mayor Kimball

Council adjourns meeting. The next Regular City Council meeting will be held at 251 E. Honolulu Street, Lindsay at 6:00PM on March 13, 2018.

ATTEST:

CITY COUNCIL OF THE CITY OF LINDSAY

Maria Knutson, Deputy City Clerk

Pamela Kimball, Mayor

CITY OF LINDSAY - WARRANT LIST

FUND	CHECK NU	CHECK DATE	VENDOR	VENDOR NAME	DESCRIPTION	AMOUNT
TOTAL						\$ 137,391.22
101 - GENERAL FUND	91771	02/23/18	2873	ADVANTAGE ANSWERING	ANSWERING SERVICE	\$ 54.27
101 - GENERAL FUND	91771	02/23/18	2873	ADVANTAGE ANSWERING	ANSWERING SERVICE	\$ 54.27
101 - GENERAL FUND	91772	02/23/18	007	AG IRRIGATION SALES	LANDSCAPE MAINT	\$ 192.06
101 - GENERAL FUND	91773	02/23/18	2323	ANDERSON FAMILY BUS	10/01/2017-12/31/20	\$ 12.50
101 - GENERAL FUND	91773	02/23/18	2323	ANDERSON FAMILY BUS	10/01/2017-12/31/20	\$ 12.50
101 - GENERAL FUND	91775	02/23/18	4924	ASI ADMINISTRATIVE	JANUARY 2018	\$ 35.00
101 - GENERAL FUND	91778	02/23/18	4888	CALIBER TECHNOLOGIE	CARTRIDGE INK/PLOTT	\$ 361.50
101 - GENERAL FUND	91780	02/23/18	5832	CINTAS CORPORATION	621433333	\$ 113.33
101 - GENERAL FUND	91780	02/23/18	5832	CINTAS CORPORATION	621433334	\$ 113.33
101 - GENERAL FUND	91780	02/23/18	5832	CINTAS CORPORATION	621433334	\$ 113.33
101 - GENERAL FUND	91781	02/23/18	279	CITY OF PORTERVILLE	ACT01-000680ANIMALD	\$ 614.00
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 1,081.38
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 1,802.30
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 2,294.27
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 1,549.22
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 3,604.60
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 1,773.92
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 3,940.70
101 - GENERAL FUND	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	PALM TREE PRUNING	\$ 1,726.61
101 - GENERAL FUND	91783	02/23/18	4322	CO OF TULARE-INFORM	RADIO SERVICE JAN20	\$ 315.00
101 - GENERAL FUND	91786	02/23/18	316	DEPT OF JUSTICE	FINGER PRINTS	\$ 454.00
101 - GENERAL FUND	91789	02/23/18	119	DOUG DELEO WELDING	BOTTLE RENTAL/ACETY	\$ 17.40
101 - GENERAL FUND	91789	02/23/18	119	DOUG DELEO WELDING	GLOVES	\$ 37.27
101 - GENERAL FUND	91789	02/23/18	119	DOUG DELEO WELDING	OLIVE BOWL CONS.DOO	\$ 93.75
101 - GENERAL FUND	91790	02/23/18	633	ENTENMANN-ROVIN CO	FLAT BADGE	\$ 170.43
101 - GENERAL FUND	91791	02/23/18	3409	FASTENAL	PERSONNEL EQUIP.	\$ 42.63
101 - GENERAL FUND	91793	02/23/18	803	FRESNO CITY COLLEGE	MARSHA BUELNA	\$ 91.00
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-4159	\$ 185.61
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7121	\$ 122.01
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7122	\$ 119.33
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7123	\$ 119.33
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7124	\$ 119.33
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7125	\$ 84.08
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7127	\$ 119.33
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7129	\$ 84.08
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2650	\$ 28.56
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2650	\$ 28.56
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-042-9309	\$ 1.99
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2652	\$ 45.70
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2656	\$ 45.70
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2662	\$ 60.44
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-188-3200	\$ 9.78
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-188-3200	\$ 9.78

FUND	CHECK NU	CHECK DATE	VENDOR	VENDOR NAME	DESCRIPTION	AMOUNT
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-2511	\$ 342.93
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-2512	\$ 121.68
101 - GENERAL FUND	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-2513	\$ 171.31
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2006 TOYOTA HYBRID	\$ 63.14
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2006 FORD CROWN	\$ 81.95
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2010 FORD FUSION	\$ 608.49
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2011 FORD HYBRID	\$ 589.16
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2011 TOYOTA HIGHLAN	\$ 397.83
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2006 TOYOTA HYBRID	\$ 280.97
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2006 FORD CROWN	\$ 49.18
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2011 FORD FUSION	\$ 169.25
101 - GENERAL FUND	91796	02/23/18	148	GOMEZ AUTO & SMOG	2006 FORD CROWN	\$ 399.83
101 - GENERAL FUND	91797	02/23/18	1391	HOME DEPOT	GRASS KILLER	\$ 97.38
101 - GENERAL FUND	91797	02/23/18	1391	HOME DEPOT	GRASS KILLER	\$ 97.37
101 - GENERAL FUND	91797	02/23/18	1391	HOME DEPOT	EQUIP. MAINT SUPPLIE	\$ 149.25
101 - GENERAL FUND	91797	02/23/18	1391	HOME DEPOT	EQUIP MAINT SUPPLIE	\$ 149.25
101 - GENERAL FUND	91798	02/23/18	4714	HUNTINGTON COURT RE	RADIO TRAFFIC AND 9	\$ 188.50
101 - GENERAL FUND	91799	02/23/18	192	JAMES WINTON & ASSO	JOB 2033 CARDINAL C	\$ 851.19
101 - GENERAL FUND	91800	02/23/18	4378	JOSEPH H AVINA	BUILD. INSPECTOR FE	\$ 896.00
101 - GENERAL FUND	91801	02/23/18	6100	KEENAN & ASSOCIATES	FEB 2018 MEDICAL PL	\$ 44,970.30
101 - GENERAL FUND	91802	02/23/18	2471	L.N. CURTIS & SONS	PO HUGHES	\$ 725.81
101 - GENERAL FUND	91804	02/23/18	1422	LINDSAY TRUE VALUE		\$ 171.61
101 - GENERAL FUND	91804	02/23/18	1422	LINDSAY TRUE VALUE		\$ 110.66
101 - GENERAL FUND	91804	02/23/18	1422	LINDSAY TRUE VALUE	MAINT SUPPLIES	\$ 116.71
101 - GENERAL FUND	91804	02/23/18	1422	LINDSAY TRUE VALUE	MAINT SUPPLIES	\$ 348.89
101 - GENERAL FUND	91804	02/23/18	1422	LINDSAY TRUE VALUE	GRAFFITI	\$ 10.86
101 - GENERAL FUND	91805	02/23/18	6259	MARSHA BUELNA	MEAL STIPEND	\$ 85.00
101 - GENERAL FUND	91806	02/23/18	234	MARTIN'S TIRE & AUT	1366703 LPD	\$ 178.23
101 - GENERAL FUND	91806	02/23/18	234	MARTIN'S TIRE & AUT	1322839 2011 TOYOTA	\$ 305.16
101 - GENERAL FUND	91806	02/23/18	234	MARTIN'S TIRE & AUT		\$ 12.00
101 - GENERAL FUND	91808	02/23/18	6258	NATIONAL TRAINING C	TUITION RYAN HEINKS	\$ 495.00
101 - GENERAL FUND	91810	02/23/18	272	PITNEY BOWES INC.	POSTAGE	\$ 2,000.00
101 - GENERAL FUND	91811	02/23/18	276	PORTERVILLE RECORDE	AD#00072314 CUP&ABC	\$ 160.88
101 - GENERAL FUND	91812	02/23/18	4264	PRECISION BRAKE & W	LIGHT TOWER/MAINT	\$ 48.33
101 - GENERAL FUND	91812	02/23/18	4264	PRECISION BRAKE & W	LIGHT TOWER/MAINT	\$ 48.32
101 - GENERAL FUND	91815	02/23/18	285	QUILL CORPORATION	55 GAL TRASH BAGS	\$ 250.07
101 - GENERAL FUND	91815	02/23/18	285	QUILL CORPORATION	OFFICE SUPPLIES	\$ 274.44
101 - GENERAL FUND	91816	02/23/18	5356	RAY MORGAN COMPANY	CANON 3035	\$ 41.08
101 - GENERAL FUND	91816	02/23/18	5356	RAY MORGAN COMPANY	CANNON IR5070	\$ 48.31
101 - GENERAL FUND	91816	02/23/18	5356	RAY MORGAN COMPANY	IRC250	\$ 87.40
101 - GENERAL FUND	91816	02/23/18	5356	RAY MORGAN COMPANY	C250	\$ 102.91
101 - GENERAL FUND	91816	02/23/18	5356	RAY MORGAN COMPANY	C5051	\$ 226.76
101 - GENERAL FUND	91816	02/23/18	5356	RAY MORGAN COMPANY	TAX	\$ 15.23
101 - GENERAL FUND	91817	02/23/18	3840	RICHARD RIOS	GOLF COURSE MANAGME	\$ 1,800.00
101 - GENERAL FUND	91818	02/23/18	5314	SHRED-IT USA LLC	JANUARY 10,2018	\$ 120.16

FUND	CHECK NU	CHECK DATE	VENDOR	VENDOR NAME	DESCRIPTION	AMOUNT
101 - GENERAL FUND	91819	02/23/18	5624	SIERRA SANITATION,	KAKU PARK PORTA POT	\$ 173.88
101 - GENERAL FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-31-637-6656	\$ 24.96
101 - GENERAL FUND	91823	02/23/18	4585	T & T PAVEMENT MARK	BUTYL PADS	\$ 206.88
101 - GENERAL FUND	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.74
101 - GENERAL FUND	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.75
101 - GENERAL FUND	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.75
101 - GENERAL FUND	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.74
101 - GENERAL FUND	91825	02/23/18	144	THE GAS COMPANY	115-454-6222-5	\$ 15.16
101 - GENERAL FUND	91825	02/23/18	144	THE GAS COMPANY	033-515-9120-5	\$ 15.16
101 - GENERAL FUND	91826	02/23/18	5792	THOMSON REUTERS - W	1/1/18 TO 1/31/18	\$ 239.00
101 - GENERAL FUND	91826	02/23/18	5792	THOMSON REUTERS - W	5 CA PENAL CODE 201	\$ 188.95
101 - GENERAL FUND	91843	03/02/18	6015	TULARE COUNTY CLERK	NOTICE OF EXEMPTION	\$ 58.00
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-31-657-7428	\$ 192.02
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-28-266-2881	\$ 46.11
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-31-361-9272	\$ 97.31
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-31-361-9165	\$ 70.92
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-31-634-6592	\$ 41.94
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-21-942-3324	\$ 63.71
261 - GAS TAX FUND	91821	02/23/18	310	SOUTHERN CA. EDISON	2-31-363-1293	\$ 182.21
261 - GAS TAX FUND	91831	02/23/18	382	ZUMAR INDUSTRIES IN	TRAFFIC CIRCLE PLAT	\$ 125.43
261 - GAS TAX FUND	91831	02/23/18	382	ZUMAR INDUSTRIES IN	STREET/KMARKERS	\$ 254.65
261 - GAS TAX FUND	91831	02/23/18	382	ZUMAR INDUSTRIES IN	KMARKERS- CREDIT	\$ (330.41)
300 - MCDERMONT OPERA	91800	02/23/18	4378	JOSEPH H AVINA	MCDERMONT/LIGHTS RE	\$ 320.00
300 - MCDERMONT OPERA	91803	02/23/18	5788	LINCOLN AQUATICS		\$ 724.70
300 - MCDERMONT OPERA	91803	02/23/18	5788	LINCOLN AQUATICS		\$ 372.60
300 - MCDERMONT OPERA	91807	02/23/18	509	MEDALLION SUPPLY	LIGHTS REPAIR	\$ 64.65
300 - MCDERMONT OPERA	91816	02/23/18	5356	RAY MORGAN COMPANY	C5051	\$ 71.44
300 - MCDERMONT OPERA	91824	02/23/18	5755	TELEPACIFIC COMMUNI	MCD FEB 9,2018 TO 3	\$ 843.60
300 - MCDERMONT OPERA	91825	02/23/18	144	THE GAS COMPANY	CLOSING BILL MCD	\$ 23.29
300 - MCDERMONT OPERA	91830	02/23/18	4865	VALLEY ELECTRICAL S	LED EMG. LIGHTS/RPR	\$ 3,040.71
300 - MCDERMONT OPERA	91830	02/23/18	4865	VALLEY ELECTRICAL S	LED RED EXIT COMBO	\$ 924.50
400 - WELLNESS CENTER	91770	02/23/18	3023	AAA SECURITY, INC.	FIRE SERVICE WELLNE	\$ 170.11
400 - WELLNESS CENTER	91774	02/23/18	6260	LLEON SERVICES	CHEMICAL BAL CONSUL	\$ 900.00
400 - WELLNESS CENTER	91779	02/23/18	5930	CHRIS ALLARD	FEB 152018	\$ 200.00
400 - WELLNESS CENTER	91787	02/23/18	3733	DIRECTV	ACT 059208625	\$ 198.59
400 - WELLNESS CENTER	91803	02/23/18	5788	LINCOLN AQUATICS		\$ 617.70
400 - WELLNESS CENTER	91803	02/23/18	5788	LINCOLN AQUATICS		\$ 779.89
400 - WELLNESS CENTER	91803	02/23/18	5788	LINCOLN AQUATICS		\$ 548.59
400 - WELLNESS CENTER	91803	02/23/18	5788	LINCOLN AQUATICS		\$ 10.87
400 - WELLNESS CENTER	91804	02/23/18	1422	LINDSAY TRUE VALUE	WELLNESS	\$ 202.40
400 - WELLNESS CENTER	91809	02/23/18	4204	ORKIN PEST CONTROL	FEB 2018	\$ 121.89
400 - WELLNESS CENTER	91822	02/23/18	5899	SUPPLYWORKS		\$ 932.65
400 - WELLNESS CENTER	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.74
400 - WELLNESS CENTER	91827	02/23/18	1664	TU CO ENVIRONMENTAL		\$ 971.00
552 - WATER	91771	02/23/18	2873	ADVANTAGE ANSWERING	ANSWERING SERVICE	\$ 54.27

FUND	CHECK NU	CHECK DATE	VENDOR	VENDOR NAME	DESCRIPTION	AMOUNT
552 - WATER	91772	02/23/18	007	AG IRRIGATION SALES	MAINT SUPPLIES	\$ 9.14
552 - WATER	91772	02/23/18	007	AG IRRIGATION SALES	#51 TRUCK	\$ 41.53
552 - WATER	91772	02/23/18	007	AG IRRIGATION SALES	MAINT SUPPLIES	\$ 10.17
552 - WATER	91777	02/23/18	051	BSK	WATER TESTING/PAST	\$ 295.00
552 - WATER	91777	02/23/18	051	BSK	PAST DUE/ WTR TEST	\$ 120.00
552 - WATER	91777	02/23/18	051	BSK	WATER TESTING	\$ 295.00
552 - WATER	91777	02/23/18	051	BSK	WATER TESTING	\$ 120.00
552 - WATER	91777	02/23/18	051	BSK	WATER TESTING	\$ 295.00
552 - WATER	91777	02/23/18	051	BSK	WATER TESTING	\$ 120.00
552 - WATER	91780	02/23/18	5832	CINTAS CORPORATION	621435099	\$ 113.33
552 - WATER	91785	02/23/18	388	DENNIS KELLER/JAMES	DBP WORK	\$ 141.39
552 - WATER	91785	02/23/18	388	DENNIS KELLER/JAMES	TEST WELL-DESIGN	\$ 1,126.50
552 - WATER	91785	02/23/18	388	DENNIS KELLER/JAMES	WELL 14	\$ 8,036.30
552 - WATER	91785	02/23/18	388	DENNIS KELLER/JAMES	WELL 15	\$ 23.75
552 - WATER	91789	02/23/18	119	DOUG DELEO WELDING	BLADES/FITTINGS	\$ 26.20
552 - WATER	91789	02/23/18	119	DOUG DELEO WELDING	REPAIR SUPPLIES	\$ 54.79
552 - WATER	91789	02/23/18	119	DOUG DELEO WELDING	REPAIR SUPPLIES	\$ 13.39
552 - WATER	91791	02/23/18	3409	FASTENAL	PERSONNEL EQUIP.	\$ 42.63
552 - WATER	91792	02/23/18	3461	FERGUSON ENTERPRISE	MAINT SUPPLIES	\$ 2,535.98
552 - WATER	91792	02/23/18	3461	FERGUSON ENTERPRISE	CNCRT WTR LIDS	\$ 1,867.87
552 - WATER	91792	02/23/18	3461	FERGUSON ENTERPRISE	MAINT SUPPLIES WATE	\$ 122.19
552 - WATER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-188-3200	\$ 9.78
552 - WATER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-150-2936	\$ 83.17
552 - WATER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2650	\$ 28.56
552 - WATER	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-1552	\$ 84.08
552 - WATER	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7131	\$ 120.97
552 - WATER	91795	02/23/18	2283	GOLDEN STATE FLOW M	WTR METERS	\$ 4,398.83
552 - WATER	91804	02/23/18	1422	LINDSAY TRUE VALUE	MAINT. SUPPLIES	\$ 537.12
552 - WATER	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.74
552 - WATER	91828	02/23/18	473	TU CO RESOURCE MANA	CRS VLLY CNL WTR DE	\$ 500.00
552 - WATER	91829	02/23/18	2960	UNITED STATES BUREA	145 AF OF 2017	\$ 1,625.45
553 - SEWER	91771	02/23/18	2873	ADVANTAGE ANSWERING	ANSWERING SERVICE	\$ 54.27
553 - SEWER	91780	02/23/18	5832	CINTAS CORPORATION	621435099	\$ 113.33
553 - SEWER	91781	02/23/18	279	CITY OF PORTERVILLE	LAB SERVICE	\$ 579.00
553 - SEWER	91781	02/23/18	279	CITY OF PORTERVILLE	LAB SERVICE	\$ 551.00
553 - SEWER	91784	02/23/18	5741	CUMMINS PACIFIC	WWTP GEN. REPAIR/SE	\$ 6,322.73
553 - SEWER	91788	02/23/18	5978	DOMINO SOLAR LTD	SOLAR WWTP	\$ 2,530.52
553 - SEWER	91791	02/23/18	3409	FASTENAL	PERSONNEL EQUIP.	\$ 42.63
553 - SEWER	91794	02/23/18	6010	FRONTIER COMMUNICAT	562-7132	\$ 228.96
553 - SEWER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2650	\$ 28.56
553 - SEWER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-150-3621	\$ 114.14
553 - SEWER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2654	\$ 45.70
553 - SEWER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-151-2655	\$ 45.70
553 - SEWER	91794	02/23/18	6010	FRONTIER COMMUNICAT	209-188-3200	\$ 9.78
553 - SEWER	91797	02/23/18	1391	HOME DEPOT	NEW TOILET BOWL WWT	\$ 161.29

FUND	CHECK NU	CHECK DATE	VENDOR	VENDOR NAME	DESCRIPTION	AMOUNT
553 - SEWER	91804	02/23/18	1422	LINDSAY TRUE VALUE	MAINT. SUPPLIES	\$ 232.84
553 - SEWER	91813	02/23/18	4618	PROVOST & PRITCHARD	GWN&R EAST PONDS	\$ 1,364.00
553 - SEWER	91814	02/23/18	5684	QUIK-ROOTER	BALANCE DUE	\$ 132.50
553 - SEWER	91820	02/23/18	890	SJVAPCD	18/19 ANNUAL PERMIT	\$ 525.00
553 - SEWER	91824	02/23/18	5755	TELEPACIFIC COMMUNI	FEB 9,2018 TO 3-8-1	\$ 641.74
554 - REFUSE	91771	02/23/18	2873	ADVANTAGE ANSWERING	ANSWERING SERVICE	\$ 54.26
554 - REFUSE	91780	02/23/18	5832	CINTAS CORPORATION	621435099	\$ 113.33
556 - CCPI	91780	02/23/18	5832	CINTAS CORPORATION	621435100	\$ 113.31
600 - CAPITAL IMPROVEM	91799	02/23/18	192	JAMES WINTON & ASSO	JOB 20330 HRMSA/WST	\$ 2,367.50
890 - MAPLE VALLEY ASSES	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	BACKFLOW REPAIR	\$ 125.00
891 - PELOUS RANCH	91782	02/23/18	6090	CLEAN CUT LANDSCAPE	BACKFLOW REPAIR	\$ 125.00
891 - PELOUS RANCH	91821	02/23/18	310	SOUTHERN CA. EDISON	2-32-032-1755	\$ 48.26



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: March 13, 2018
AGENDA #: 5
STAFF: William Zigler, City Manager, (559) 562-7102, wzigler@lindsay.ca.us

AGENDA ITEM

TITLE Support for Eagle Mountain Casino Relocation

ACTION Authorize Mayor to sign Letter of Support

PURPOSE Discretionary Action

COUNCIL OBJECTIVE(S) Stimulate, attract and retain local businesses.
Advance economic diversity.

RECOMMENDATION

Staff recommends that the City Council authorize the Mayor to sign a letter of support for the relocation of the Eagle Mountain Casino from its current remote location on tribal lands southeast of Lake Success to a more accessible, tribal-owned and appropriately-zoned parcel near the Porterville airport.

BACKGROUND | ANALYSIS

Staff was recently approached by Tribal representatives, seeking support for the planned relocation of the Eagle Mountain Casino from remote tribal lands to a more accessible location near the Porterville airport. Tribal representatives explained the benefits of relocation, including:

- Better management of scarce water resources, both on the reservation and within the City of Porterville
- Better management of effluent, in collaboration with the City of Porterville
- Local and regional economic development opportunities (McDermont, the planned Sports Facility on Hwy 65, local restaurants and gas stations)
- Additional construction and facility operations job opportunities

ALTERNATIVES

- Authorize the mayor to sign the attached letter
 - Authorize the mayor to sign the attached letter with amendments
 - Direct staff to take some other action
 - Do nothing
-



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: March 13, 2018
AGENDA #: 5
STAFF: William Zigler, City Manager, (559) 562-7102, wzigler@lindsay.ca.us

BENEFIT TO OR IMPACT ON CITY RESOURCES

Staff agrees that local and regional economic development opportunities should arise from the relocation of the casino. Staff agrees that additional construction and facility operations job opportunities should arise from the relocation.

ENVIRONMENTAL REVIEW

None required to authorize the signing of the letter by the Mayor.

POLICY ISSUES

None

PUBLIC OUTREACH

Tribal representatives are reaching out to all local governments and boards.

ATTACHMENT

- Draft letter of support



City of Lindsay

P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street

March 13, 2018

Ms. Amy Dutschke
Regional Director
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Ms. Dutschke:

The City of Lindsay recently voted to support Eagle Mountain Casino resort and casino relocation proposal.

As the city adjacent to Porterville, we understand the potential benefits to the community should this project be approved. Unemployment in the region is nearly double the state and national average. However, a project of this magnitude will positively impact the entire region.

The relocation proposal includes hotel space and needed convention space. This will allow for community concerts, events and conventions that simply cannot be done with existing services. The proposal creates hundreds of construction jobs and will add nearly 500 new employees to operate the casino and resort, making the Tribe one of the largest employers in Tulare County.

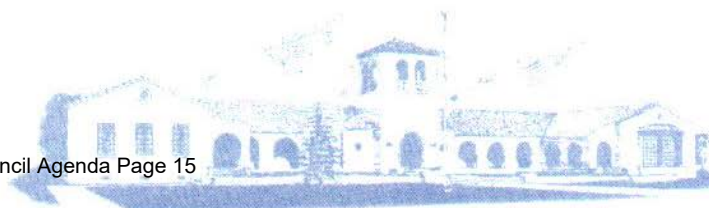
The job creation from this project will stimulate the local economy. Some residents from Lindsay will likely be hired for the construction phase or to assist in the operation of the casino and hotel. Ancillary businesses in Lindsay such as gas stations, convenience stores and restaurants should experience a positive impact from more visitors and workers in the region. There may be some synergies between Lindsay and the relocated casino that can help everyone.

Finally, the Tribe is taking a responsible approach to this project. Jobs and revenue to the region will increase while limiting the impacts to services. For example, the casino will maximize its use of recycled and reclaimed water to achieve a net zero impact on potable water.

The proposed casino and resort is a worthy project that will benefit all of the people of the region.

Sincerely,

Pamela Kimball, Lindsay Mayor





STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: March 13, 2018
AGENDA #: 7
STAFF: Bill Zigler, City Manager, 559-562-7102, wzigler@lindsay.ca.us

AGENDA ITEM

TITLE	DACA Resolution of Support
ACTION	Approval of Resolution of Support for DACA
PURPOSE	Discretionary Action
COUNCIL OBJECTIVE	Increase our keen sense of identity in a physically connected and involved community.

RECOMMENDATION

Staff recommends approval of the attached resolution, a resolution of support for Deferred Action for Childhood Arrivals.

BACKGROUND | ANALYSIS

At its meeting on February 27, 2018, Councilmember Cortes requested that the City Council consider adopting a Resolution in Support of Deferred Action for Childhood Arrivals (DACA), as a Scheduled Matter at its meeting on March 13, 2018.

DACA is a program established in 2012 granting work permits and temporary protection from deportation to approximately 698,800 youth who came to the United States before age 16. In July 2017, legislation was introduced in both the House of Representatives (H.R. 3440) and Senate (S. 1615) to address DACA policy, known as the Development, Relief, and Education for Alien Minors (DREAM) Act. In September 2017, Congress was given a six (6)-month period to consider legislative alternatives and solutions.

It has been requested that the Lindsay City Council consider adopting a Resolution of Support of DACA, including the DREAM Act of 2017.

ALTERNATIVES

- Approve attached resolution in support of DACA
 - Approve attached resolution with amendments
 - Do nothing
-



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: March 13, 2018
AGENDA #: 7
STAFF: Bill Zigler, City Manager, 559-562-7102, wzigler@lindsay.ca.us

BENEFIT TO OR IMPACT ON CITY RESOURCES

Council's memorialized endorsement of DACA would provide support and show solidarity with those living in Lindsay subject to the provisions of DACA. That support would increase our keen sense of identity in a physically connected and involved community.

ENVIRONMENTAL REVIEW

None

POLICY ISSUES

None

PUBLIC OUTREACH

None

ATTACHMENTS

- Draft Resolution
- BILLS-S. 1615
- BILLS-H.R. 3440

RESOLUTION NO. 18-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF LINDSAY SUPPORTING THE DREAM ACT OF 2017

WHEREAS: 698,800 immigrant youth are in jeopardy of losing their ability to legally work and forced into the shadows as the result of the potential elimination of the Deferred Action for Childhood Arrivals (DACA); and

WHEREAS: DACA beneficiaries would likely contribute \$460.3 billion to the U.S. gross domestic product over the next decade; and

WHEREAS: 97% of immigrant youth who benefited from the Deferred Action for Childhood Arrivals (DACA) program are either employed, enrolled in schools or serving in the military; and

WHEREAS: The Development, Relief, and Education for Alien Minors (DREAM) Act is bipartisan legislation introduced both in the U.S. Senate and House of Representatives, provides a permanent solution and peace of mind to immigrant youth who were brought to the United States as infants, children, and adolescents, and who have since grown up in our state and called our country home.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Lindsay stands in strong support and urge the swift passage of (S. 1615) and (H.R. 3440) Development, Relief, and Education for Alien Minors (DREAM) Act - of 2017, introduced in the U.S. Senate on July 20, 2017, and in the U.S. House of Representatives on July 26, 2017, a bill that will allow thousands of young students that have lived in the United States for years, and call it home, to realize their education dream and give them a path to legalizing their immigration status.

PASSED, APPROVED AND ADOPTED this 13th day of March, 2018.

CITY COUNCIL OF THE CITY OF LINDSAY

Pamela Kimball, Mayor

ATTEST:

Maria Knutson, Deputy City Clerk

115TH CONGRESS
1ST SESSION

S. 1615

To authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and who entered the United States as children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2017

Mr. GRAHAM (for himself, Mr. DURBIN, Mr. FLAKE, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and who entered the United States as children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dream Act of 2017”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) IN GENERAL.—Except as otherwise specifi-
8 cally provided, any term used in this Act that is

1 used in the immigration laws shall have the meaning
2 given such term in the immigration laws.

3 (2) DACA.—The term “DACA” means de-
4 ferred action granted to an alien pursuant to the
5 Deferred Action for Childhood Arrivals program an-
6 nounced by President Obama on June 15, 2012.

7 (3) DISABILITY.—The term “disability” has the
8 meaning given such term in section 3(1) of the
9 Americans with Disabilities Act of 1990 (42 U.S.C.
10 12102(1)).

11 (4) EARLY CHILDHOOD EDUCATION PRO-
12 GRAM.—The term “early childhood education pro-
13 gram” has the meaning given such term in section
14 103 of the Higher Education Act of 1965 (20
15 U.S.C. 1003).

16 (5) ELEMENTARY SCHOOL; HIGH SCHOOL; SEC-
17 ONDARY SCHOOL.—The terms “elementary school”,
18 “high school”, and “secondary school” have the
19 meanings given such terms in section 8101 of the
20 Elementary and Secondary Education Act of 1965
21 (20 U.S.C. 7801).

22 (6) IMMIGRATION LAWS.—The term “immigra-
23 tion laws” has the meaning given such term in sec-
24 tion 101(a)(17) of the Immigration and Nationality
25 Act (8 U.S.C. 1101(a)(17)).

1 (7) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education”—

3 (A) except as provided in subparagraph
4 (B), has the meaning given such term in section
5 102 of the Higher Education Act of 1965 (20
6 U.S.C. 1002); and

7 (B) does not include an institution of high-
8 er education outside of the United States.

9 (8) PERMANENT RESIDENT STATUS ON A CON-
10 DITIONAL BASIS.—The term “permanent resident
11 status on a conditional basis” means status as an
12 alien lawfully admitted for permanent residence on
13 a conditional basis under this Act.

14 (9) POVERTY LINE.—The term “poverty line”
15 has the meaning given such term in section 673 of
16 the Community Services Block Grant Act (42 U.S.C.
17 9902).

18 (10) SECRETARY.—Except as otherwise specifi-
19 cally provided, the term “Secretary” means the Sec-
20 retary of Homeland Security.

21 (11) UNIFORMED SERVICES.—The term “Uni-
22 formed Services” has the meaning given the term
23 “uniformed services” in section 101(a) of title 10,
24 United States Code.

1 **SEC. 3. PERMANENT RESIDENT STATUS ON A CONDITIONAL**
 2 **BASIS FOR CERTAIN LONG-TERM RESIDENTS**
 3 **WHO ENTERED THE UNITED STATES AS CHIL-**
 4 **DREN.**

5 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
 6 standing any other provision of law, an alien shall be con-
 7 sidered, at the time of obtaining the status of an alien
 8 lawfully admitted for permanent residence under this sec-
 9 tion, to have obtained such status on a conditional basis
 10 subject to the provisions under this Act.

11 (b) **REQUIREMENTS.**—

12 (1) **IN GENERAL.**—Notwithstanding any other
 13 provision of law, the Secretary shall cancel the re-
 14 moval of, and adjust to the status of an alien law-
 15 fully admitted for permanent residence on a condi-
 16 tional basis, an alien who is inadmissible or deport-
 17 able from the United States or is in temporary pro-
 18 tected status under section 244 of the Immigration
 19 and Nationality Act (8 U.S.C. 1254a), if—

20 (A) the alien has been continuously phys-
 21 ically present in the United States since the
 22 date that is 4 years before the date of the en-
 23 actment of this Act;

24 (B) the alien was younger than 18 years of
 25 age on the date on which the alien initially en-
 26 tered the United States;

1 (C) subject to paragraphs (2) and (3), the
2 alien—

3 (i) is not inadmissible under para-
4 graph (2), (3), (6)(E), (6)(G), (8),
5 (10)(A), (10)(C), or (10)(D) of section
6 212(a) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(a));

8 (ii) has not ordered, incited, assisted,
9 or otherwise participated in the persecution
10 of any person on account of race, religion,
11 nationality, membership in a particular so-
12 cial group, or political opinion; and

13 (iii) has not been convicted of—

14 (I) any offense under Federal or
15 State law, other than a State offense
16 for which an essential element is the
17 alien's immigration status, that is
18 punishable by a maximum term of im-
19 prisonment of more than 1 year; or

20 (II) 3 or more offenses under
21 Federal or State law, other than State
22 offenses for which an essential ele-
23 ment is the alien's immigration sta-
24 tus, for which the alien was convicted
25 on different dates for each of the 3 of-

1 fenses and imprisoned for an aggregate of 90 days or more; and

2
3 (D) the alien—

4 (i) has been admitted to an institution
5 of higher education;

6 (ii) has earned a high school diploma
7 or a commensurate alternative award from
8 a public or private high school, or has obtained a general education development
9 certificate recognized under State law or a
10 high school equivalency diploma in the
11 United States; or

12
13 (iii) is enrolled in secondary school or
14 in an education program assisting students
15 in—

16 (I) obtaining a regular high
17 school diploma or its recognized equivalent under State law; or

18
19 (II) in passing a general educational development exam, a high
20 school equivalence diploma examination, or other similar State-authorized
21 exam.
22
23

24 (2) WAIVER.—With respect to any benefit
25 under this Act, the Secretary may waive the grounds

1 of inadmissibility under paragraph (2), (6)(E),
2 (6)(G), or (10)(D) of section 212(a) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1182(a)) for hu-
4 manitarian purposes or family unity or if the waiver
5 is otherwise in the public interest.

6 (3) TREATMENT OF EXPUNGED CONVIC-
7 TIONS.—An expunged conviction shall not automati-
8 cally be treated as an offense under paragraph (1).
9 The Secretary shall evaluate expunged convictions
10 on a case-by-case basis according to the nature and
11 severity of the offense to determine whether, under
12 the particular circumstances, the Secretary deter-
13 mines that the alien should be eligible for cancella-
14 tion of removal, adjustment to permanent resident
15 status on a conditional basis, or other adjustment of
16 status.

17 (4) DACA RECIPIENTS.—The Secretary shall
18 cancel the removal of, and adjust to the status of an
19 alien lawfully admitted for permanent residence on
20 a conditional basis, an alien who was granted DACA
21 unless the alien has engaged in conduct since the
22 alien was granted DACA that would make the alien
23 ineligible for DACA.

24 (5) APPLICATION FEE.—

1 (A) IN GENERAL.—The Secretary may re-
2 quire an alien applying for permanent resident
3 status on a conditional basis under this section
4 to pay a reasonable fee that is commensurate
5 with the cost of processing the application.

6 (B) EXEMPTION.—An applicant may be
7 exempted from paying the fee required under
8 subparagraph (A) if the alien—

9 (i)(I) is younger than 18 years of age;

10 (II) received total income, during the
11 12-month period immediately preceding the
12 date on which the alien files an application
13 under this section, that is less than 150
14 percent of the poverty line; and

15 (III) is in foster care or otherwise
16 lacking any parental or other familial sup-
17 port;

18 (ii) is younger than 18 years of age
19 and is homeless;

20 (iii)(I) cannot care for himself or her-
21 self because of a serious, chronic disability;
22 and

23 (II) received total income, during the
24 12-month period immediately preceding the
25 date on which the alien files an application

1 under this section, that is less than 150
2 percent of the poverty line; or

3 (iv)(I) during the 12-month period im-
4 mediately preceding the date on which the
5 alien files an application under this sec-
6 tion, accumulated \$10,000 or more in debt
7 as a result of unreimbursed medical ex-
8 penses incurred by the alien or an imme-
9 diate family member of the alien; and

10 (II) received total income, during the
11 12-month period immediately preceding the
12 date on which the alien files an application
13 under this section, that is less than 150
14 percent of the poverty line.

15 (6) SUBMISSION OF BIOMETRIC AND BIO-
16 GRAPHIC DATA.—The Secretary may not grant an
17 alien permanent resident status on a conditional
18 basis under this section unless the alien submits bio-
19 metric and biographic data, in accordance with pro-
20 cedures established by the Secretary. The Secretary
21 shall provide an alternative procedure for aliens who
22 are unable to provide such biometric or biographic
23 data because of a physical impairment.

24 (7) BACKGROUND CHECKS.—

1 (A) REQUIREMENT FOR BACKGROUND
 2 CHECKS.—The Secretary shall utilize biometric,
 3 biographic, and other data that the Secretary
 4 determines appropriate—

5 (i) to conduct security and law en-
 6 forcement background checks of an alien
 7 seeking permanent resident status on a
 8 conditional basis under this section; and

9 (ii) to determine whether there is any
 10 criminal, national security, or other factor
 11 that would render the alien ineligible for
 12 such status.

13 (B) COMPLETION OF BACKGROUND
 14 CHECKS.—The security and law enforcement
 15 background checks of an alien required under
 16 subparagraph (A) shall be completed, to the
 17 satisfaction of the Secretary, before the date on
 18 which the Secretary grants such alien perma-
 19 nent resident status on a conditional basis
 20 under this section.

21 (8) MEDICAL EXAMINATION.—

22 (A) REQUIREMENT.—An alien applying for
 23 permanent resident status on a conditional
 24 basis under this section shall undergo a medical
 25 examination.

1 (B) POLICIES AND PROCEDURES.—The
2 Secretary, with the concurrence of the Sec-
3 retary of Health and Human Services, shall
4 prescribe policies and procedures for the nature
5 and timing of the examination required under
6 subparagraph (A).

7 (9) MILITARY SELECTIVE SERVICE.—An alien
8 applying for permanent resident status on a condi-
9 tional basis under this section shall establish that
10 the alien has registered under the Military Selective
11 Service Act (50 U.S.C. 3801 et seq.), if the alien is
12 subject to registration under such Act.

13 (c) DETERMINATION OF CONTINUOUS PRESENCE.—

14 (1) TERMINATION OF CONTINUOUS PERIOD.—
15 Any period of continuous physical presence in the
16 United States of an alien who applies for permanent
17 resident status on a conditional basis under this sec-
18 tion shall not terminate when the alien is served a
19 notice to appear under section 239(a) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1229(a)).

21 (2) TREATMENT OF CERTAIN BREAKS IN PRES-
22 ENCE.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraphs (B) and (C), an alien shall be
25 considered to have failed to maintain contin-

1 uous physical presence in the United States
 2 under subsection (b)(1)(A) if the alien has de-
 3 parted from the United States for any period
 4 exceeding 90 days or for any periods, in the ag-
 5 gregate, exceeding 180 days.

6 (B) EXTENSIONS FOR EXTENUATING CIR-
 7 CUMSTANCES.—The Secretary may extend the
 8 time periods described in subparagraph (A) for
 9 an alien who demonstrates that the failure to
 10 timely return to the United States was due to
 11 extenuating circumstances beyond the alien’s
 12 control, including the serious illness of the
 13 alien, or death or serious illness of a parent,
 14 grandparent, sibling, or child of the alien.

15 (C) TRAVEL AUTHORIZED BY THE SEC-
 16 RETARY.—Any period of travel outside of the
 17 United States by an alien that was authorized
 18 by the Secretary may not be counted toward
 19 any period of departure from the United States
 20 under subparagraph (A).

21 (d) LIMITATION ON REMOVAL OF CERTAIN
 22 ALIENS.—

23 (1) IN GENERAL.—The Secretary or the Attor-
 24 ney General may not remove an alien who appears
 25 prima facie eligible for relief under this section.

1 (2) ALIENS SUBJECT TO REMOVAL.—The Sec-
 2 retary shall provide a reasonable opportunity to
 3 apply for relief under this section to any alien who
 4 requests such an opportunity or who appears prima
 5 facie eligible for relief under this section if the alien
 6 is in removal proceedings, is the subject of a final
 7 removal order, or is the subject of a voluntary depar-
 8 ture order.

9 (3) CERTAIN ALIENS ENROLLED IN ELEMEN-
 10 TARY OR SECONDARY SCHOOL.—

11 (A) STAY OF REMOVAL.—The Attorney
 12 General shall stay the removal proceedings of
 13 an alien who—

14 (i) meets all the requirements under
 15 subparagraphs (A), (B), and (C) of sub-
 16 section (b)(1), subject to paragraphs (2)
 17 and (3) of such subsection;

18 (ii) is at least 5 years of age; and

19 (iii) is enrolled in an elementary
 20 school, a secondary school, or an early
 21 childhood education program.

22 (B) COMMENCEMENT OF REMOVAL PRO-
 23 CEEDINGS.—The Secretary may not commence
 24 removal proceedings for an alien described in
 25 subparagraph (A).

1 (C) EMPLOYMENT.—An alien whose re-
 2 moval is stayed pursuant to subparagraph (A)
 3 or who may not be placed in removal pro-
 4 ceedings pursuant to subparagraph (B) shall,
 5 upon application to the Secretary, be granted
 6 an employment authorization document.

7 (D) LIFT OF STAY.—The Secretary or At-
 8 torney General may not lift the stay granted to
 9 an alien under subparagraph (A) unless the
 10 alien ceases to meet the requirements under
 11 such subparagraph.

12 (e) EXEMPTION FROM NUMERICAL LIMITATIONS.—
 13 Nothing in this section or in any other law may be con-
 14 strued to apply a numerical limitation on the number of
 15 aliens who may be granted permanent resident status on
 16 a conditional basis under this Act.

17 **SEC. 4. TERMS OF PERMANENT RESIDENT STATUS ON A**
 18 **CONDITIONAL BASIS.**

19 (a) PERIOD OF STATUS.—Permanent resident status
 20 on a conditional basis is—

21 (1) valid for a period of 8 years, unless such pe-
 22 riod is extended by the Secretary; and

23 (2) subject to termination under subsection (c).

24 (b) NOTICE OF REQUIREMENTS.—At the time an
 25 alien obtains permanent resident status on a conditional

1 basis, the Secretary shall provide notice to the alien re-
 2 garding the provisions of this Act and the requirements
 3 to have the conditional basis of such status removed.

4 (c) TERMINATION OF STATUS.—The Secretary may
 5 terminate the permanent resident status on a conditional
 6 basis of an alien only if the Secretary—

7 (1) determines that the alien ceases to meet the
 8 requirements under paragraph (1)(C) of section
 9 3(b), subject to paragraphs (2) and (3) of that sec-
 10 tion; and

11 (2) prior to the termination, provides the
 12 alien—

13 (A) notice of the proposed termination;
 14 and

15 (B) the opportunity for a hearing to pro-
 16 vide evidence that the alien meets such require-
 17 ments or otherwise contest the termination.

18 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

19 (1) IN GENERAL.—Except as provided in para-
 20 graph (2), an alien whose permanent resident status
 21 on a conditional basis expires under subsection
 22 (a)(1) or is terminated under subsection (c) or
 23 whose application for such status is denied shall re-
 24 turn to the immigration status that the alien had
 25 immediately before receiving permanent resident sta-

1 tus on a conditional basis or applying for such sta-
2 tus, as appropriate.

3 (2) SPECIAL RULE FOR TEMPORARY PRO-
4 TECTED STATUS.—An alien whose permanent resi-
5 dent status on a conditional basis expires under sub-
6 section (a)(1) or is terminated under subsection (c)
7 or whose application for such status is denied and
8 who had temporary protected status under section
9 244 of the Immigration and Nationality Act (8
10 U.S.C. 1254a) immediately before receiving or ap-
11 plying for such permanent resident status on a con-
12 ditional basis, as appropriate, may not return to
13 such temporary protected status if—

14 (A) the relevant designation under section
15 244(b) of the Immigration and Nationality Act
16 (8 U.S.C. 1254a(b)) has been terminated; or

17 (B) the Secretary determines that the rea-
18 son for terminating the permanent resident sta-
19 tus on a conditional basis renders the alien in-
20 eligible for such temporary protected status.

21 **SEC. 5. REMOVAL OF CONDITIONAL BASIS OF PERMANENT**
22 **RESIDENT STATUS.**

23 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
24 BASIS.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the Secretary shall remove the conditional basis of
3 an alien’s permanent resident status granted under
4 this Act and grant the alien status as an alien law-
5 fully admitted for permanent residence if the alien—

6 (A) is described in paragraph (1)(C) of
7 section 3(b), subject to paragraphs (2) and (3)
8 of that section;

9 (B) has not abandoned the alien’s resi-
10 dence in the United States; and

11 (C)(i) has acquired a degree from an insti-
12 tution of higher education or has completed at
13 least 2 years, in good standing, in a program
14 for a bachelor’s degree or higher degree in the
15 United States;

16 (ii) has served in the Uniformed Services
17 for at least 2 years and, if discharged, received
18 an honorable discharge; or

19 (iii) has been employed for periods totaling
20 at least 3 years and at least 75 percent of the
21 time that the alien has had a valid employment
22 authorization, except that any period during
23 which the alien is not employed while having a
24 valid employment authorization and is enrolled
25 in an institution of higher education, a sec-

1 ondary school, or an education program de-
2 scribed in section 3(b)(1)(D)(iii), shall not
3 count toward the time requirements under this
4 clause.

5 (2) HARDSHIP EXCEPTION.—

6 (A) IN GENERAL.—The Secretary shall re-
7 move the conditional basis of an alien’s perma-
8 nent resident status and grant the alien status
9 as an alien lawfully admitted for permanent
10 residence if the alien—

11 (i) satisfies the requirements under
12 subparagraphs (A) and (B) of paragraph
13 (1);

14 (ii) demonstrates compelling cir-
15 cumstances for the inability to satisfy the
16 requirements under subparagraph (C) of
17 such paragraph; and

18 (iii) demonstrates that—

19 (I) the alien has a disability;

20 (II) the alien is a full-time care-
21 giver of a minor child; or

22 (III) the removal of the alien
23 from the United States would result
24 in extreme hardship to the alien or
25 the alien’s spouse, parent, or child

1 who is a national of the United States
2 or is lawfully admitted for permanent
3 residence.

4 (3) CITIZENSHIP REQUIREMENT.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), the conditional basis of an
7 alien’s permanent resident status granted under
8 this Act may not be removed unless the alien
9 demonstrates that the alien satisfies the re-
10 quirements under section 312(a) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1423(a)).

12 (B) EXCEPTION.—Subparagraph (A) shall
13 not apply to an alien who is unable to meet the
14 requirements under such section 312(a) due to
15 disability.

16 (4) APPLICATION FEE.—

17 (A) IN GENERAL.—The Secretary may re-
18 quire aliens applying for lawful permanent resi-
19 dent status under this section to pay a reason-
20 able fee that is commensurate with the cost of
21 processing the application.

22 (B) EXEMPTION.—An applicant may be
23 exempted from paying the fee required under
24 subparagraph (A) if the alien—

25 (i)(I) is younger than 18 years of age;

1 (II) received total income, during the
2 12-month period immediately preceding the
3 date on which the alien files an application
4 under this section, that is less than 150
5 percent of the poverty line; and

6 (III) is in foster care or otherwise
7 lacking any parental or other familial sup-
8 port;

9 (ii) is younger than 18 years of age
10 and is homeless;

11 (iii)(I) cannot care for himself or her-
12 self because of a serious, chronic disability;
13 and

14 (II) received total income, during the
15 12-month period immediately preceding the
16 date on which the alien files an application
17 under this section, that is less than 150
18 percent of the poverty line; or

19 (iv)(I) during the 12-month period im-
20 mediately preceding the date on which the
21 alien files an application under this sec-
22 tion, the alien accumulated \$10,000 or
23 more in debt as a result of unreimbursed
24 medical expenses incurred by the alien or

1 an immediate family member of the alien;
2 and

3 (II) received total income, during the
4 12-month period immediately preceding the
5 date on which the alien files an application
6 under this section, that is less than 150
7 percent of the poverty line.

8 (5) SUBMISSION OF BIOMETRIC AND BIO-
9 GRAPHIC DATA.—The Secretary may not remove the
10 conditional basis of an alien’s permanent resident
11 status unless the alien submits biometric and bio-
12 graphic data, in accordance with procedures estab-
13 lished by the Secretary. The Secretary shall provide
14 an alternative procedure for applicants who are un-
15 able to provide such biometric data because of a
16 physical impairment.

17 (6) BACKGROUND CHECKS.—

18 (A) REQUIREMENT FOR BACKGROUND
19 CHECKS.—The Secretary shall utilize biometric,
20 biographic, and other data that the Secretary
21 determines appropriate—

22 (i) to conduct security and law en-
23 forcement background checks of an alien
24 applying for removal of the conditional

1 basis of the alien's permanent resident sta-
 2 tus; and

3 (ii) to determine whether there is any
 4 criminal, national security, or other factor
 5 that would render the alien ineligible for
 6 removal of such conditional basis.

7 (B) COMPLETION OF BACKGROUND
 8 CHECKS.—The security and law enforcement
 9 background checks of an alien required under
 10 subparagraph (A) shall be completed, to the
 11 satisfaction of the Secretary, before the date on
 12 which the Secretary removes the conditional
 13 basis of the alien's permanent resident status.

14 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
 15 TION.—

16 (1) IN GENERAL.—For purposes of title III of
 17 the Immigration and Nationality Act (8 U.S.C. 1401
 18 et seq.), an alien granted permanent resident status
 19 on a conditional basis shall be considered to have
 20 been admitted to the United States, and be present
 21 in the United States, as an alien lawfully admitted
 22 for permanent residence.

23 (2) LIMITATION ON APPLICATION FOR NATU-
 24 RALIZATION.—An alien may not apply for natu-

1 realization while the alien is in permanent resident
2 status on a conditional basis.

3 **SEC. 6. DOCUMENTATION REQUIREMENTS.**

4 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
5 alien’s application for permanent resident status on a con-
6 ditional basis may include, as proof of identity—

7 (1) a passport or national identity document
8 from the alien’s country of origin that includes the
9 alien’s name and the alien’s photograph or finger-
10 print;

11 (2) the alien’s birth certificate and an identity
12 card that includes the alien’s name and photograph;

13 (3) a school identification card that includes the
14 alien’s name and photograph, and school records
15 showing the alien’s name and that the alien is or
16 was enrolled at the school;

17 (4) a Uniformed Services identification card
18 issued by the Department of Defense;

19 (5) any immigration or other document issued
20 by the United States Government bearing the alien’s
21 name and photograph; or

22 (6) a State-issued identification card bearing
23 the alien’s name and photograph.

24 (b) DOCUMENTS ESTABLISHING CONTINUOUS PHYS-
25 ICAL PRESENCE IN THE UNITED STATES.—To establish

1 that an alien has been continuously physically present in
2 the United States, as required under section 3(b)(1)(A),
3 or to establish that an alien has not abandoned residence
4 in the United States, as required under section 5(a)(1)(B),
5 the alien may submit documents to the Secretary, includ-
6 ing—

7 (1) employment records that include the em-
8 ployer's name and contact information;

9 (2) records from any educational institution the
10 alien has attended in the United States;

11 (3) records of service from the Uniformed Serv-
12 ices;

13 (4) official records from a religious entity con-
14 firming the alien's participation in a religious cere-
15 mony;

16 (5) passport entries;

17 (6) a birth certificate for a child who was born
18 in the United States;

19 (7) automobile license receipts or registration;

20 (8) deeds, mortgages, or rental agreement con-
21 tracts;

22 (9) tax receipts;

23 (10) insurance policies;

24 (11) remittance records;

1 (12) rent receipts or utility bills bearing the
2 alien's name or the name of an immediate family
3 member of the alien, and the alien's address;

4 (13) copies of money order receipts for money
5 sent in or out of the United States;

6 (14) dated bank transactions; or

7 (15) 2 or more sworn affidavits from individ-
8 uals who are not related to the alien who have direct
9 knowledge of the alien's continuous physical pres-
10 ence in the United States, that contain—

11 (A) the name, address, and telephone num-
12 ber of the affiant; and

13 (B) the nature and duration of the rela-
14 tionship between the affiant and the alien.

15 (c) DOCUMENTS ESTABLISHING INITIAL ENTRY
16 INTO THE UNITED STATES.—To establish under section
17 3(b)(1)(B) that an alien was younger than 18 years of
18 age on the date on which the alien initially entered the
19 United States, an alien may submit documents to the Sec-
20 retary, including—

21 (1) an admission stamp on the alien's passport;

22 (2) records from any educational institution the
23 alien has attended in the United States;

1 (3) any document from the Department of Jus-
2 tice or the Department of Homeland Security stat-
3 ing the alien's date of entry into the United States;

4 (4) hospital or medical records showing medical
5 treatment or hospitalization, the name of the med-
6 ical facility or physician, and the date of the treat-
7 ment or hospitalization;

8 (5) rent receipts or utility bills bearing the
9 alien's name or the name of an immediate family
10 member of the alien, and the alien's address;

11 (6) employment records that include the em-
12 ployer's name and contact information;

13 (7) official records from a religious entity con-
14 firming the alien's participation in a religious cere-
15 mony;

16 (8) a birth certificate for a child who was born
17 in the United States;

18 (9) automobile license receipts or registration;

19 (10) deeds, mortgages, or rental agreement con-
20 tracts;

21 (11) tax receipts;

22 (12) travel records;

23 (13) copies of money order receipts sent in or
24 out of the country;

25 (14) dated bank transactions;

1 (15) remittance records; or

2 (16) insurance policies.

3 (d) DOCUMENTS ESTABLISHING ADMISSION TO AN
4 INSTITUTION OF HIGHER EDUCATION.—To establish that
5 an alien has been admitted to an institution of higher edu-
6 cation, the alien shall submit to the Secretary a document
7 from the institution of higher education certifying that the
8 alien—

9 (1) has been admitted to the institution; or

10 (2) is currently enrolled in the institution as a
11 student.

12 (e) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
13 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—
14 To establish that an alien has acquired a degree from an
15 institution of higher education in the United States, the
16 alien shall submit to the Secretary a diploma or other doc-
17 ument from the institution stating that the alien has re-
18 ceived such a degree.

19 (f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH
20 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
21 MENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—
22 To establish that an alien has earned a high school di-
23 ploma or a commensurate alternative award from a public
24 or private high school, or has obtained a general edu-
25 cational development certificate recognized under State

1 law or a high school equivalency diploma in the United
2 States, the alien shall submit to the Secretary—

3 (1) a high school diploma, certificate of comple-
4 tion, or other alternate award;

5 (2) a high school equivalency diploma or certifi-
6 cate recognized under State law; or

7 (3) evidence that the alien passed a State-au-
8 thorized exam, including the general educational de-
9 velopment exam, in the United States.

10 (g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
11 EDUCATIONAL PROGRAM.—To establish that an alien is
12 enrolled in any school or education program described in
13 section 3(b)(1)(D)(iii), 3(d)(3)(A)(iii), or 5(a)(1)(C), the
14 alien shall submit school records from the United States
15 school that the alien is currently attending that include—

16 (1) the name of the school; and

17 (2) the alien’s name, periods of attendance, and
18 current grade or educational level.

19 (h) DOCUMENTS ESTABLISHING EXEMPTION FROM
20 APPLICATION FEES.—To establish that an alien is exempt
21 from an application fee under section 3(b)(5)(B) or
22 5(a)(4)(B), the alien shall submit to the Secretary the fol-
23 lowing relevant documents:

24 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
25 tablish that an alien meets an age requirement, the

1 alien shall provide proof of identity, as described in
 2 subsection (a), that establishes that the alien is
 3 younger than 18 years of age.

4 (2) DOCUMENTS TO ESTABLISH INCOME.—To
 5 establish the alien’s income, the alien shall provide—

6 (A) employment records that have been
 7 maintained by the Social Security Administra-
 8 tion, the Internal Revenue Service, or any other
 9 Federal, State, or local government agency;

10 (B) bank records; or

11 (C) at least 2 sworn affidavits from indi-
 12 viduals who are not related to the alien and
 13 who have direct knowledge of the alien’s work
 14 and income that contain—

15 (i) the name, address, and telephone
 16 number of the affiant; and

17 (ii) the nature and duration of the re-
 18 lationship between the affiant and the
 19 alien.

20 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
 21 LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR
 22 SERIOUS, CHRONIC DISABILITY.—To establish that
 23 the alien was in foster care, lacks parental or famil-
 24 ial support, is homeless, or has a serious, chronic
 25 disability, the alien shall provide at least 2 sworn af-

1 fidavits from individuals who are not related to the
2 alien and who have direct knowledge of the cir-
3 cumstances that contain—

4 (A) a statement that the alien is in foster
5 care, otherwise lacks any parental or other fa-
6 miliar support, is homeless, or has a serious,
7 chronic disability, as appropriate;

8 (B) the name, address, and telephone num-
9 ber of the affiant; and

10 (C) the nature and duration of the rela-
11 tionship between the affiant and the alien.

12 (4) DOCUMENTS TO ESTABLISH UNPAID MED-
13 ICAL EXPENSE.—To establish that the alien has debt
14 as a result of unreimbursed medical expenses, the
15 alien shall provide receipts or other documentation
16 from a medical provider that—

17 (A) bear the provider's name and address;

18 (B) bear the name of the individual receiv-
19 ing treatment; and

20 (C) document that the alien has accumu-
21 lated \$10,000 or more in debt in the past 12
22 months as a result of unreimbursed medical ex-
23 penses incurred by the alien or an immediate
24 family member of the alien.

1 (i) DOCUMENTS ESTABLISHING QUALIFICATION FOR
 2 HARDSHIP EXEMPTION.—To establish that an alien satis-
 3 fies one of the criteria for the hardship exemption set forth
 4 in section 5(a)(2)(A)(iii), the alien shall submit to the Sec-
 5 retary at least 2 sworn affidavits from individuals who are
 6 not related to the alien and who have direct knowledge
 7 of the circumstances that warrant the exemption, that
 8 contain—

9 (1) the name, address, and telephone number of
 10 the affiant; and

11 (2) the nature and duration of the relationship
 12 between the affiant and the alien.

13 (j) DOCUMENTS ESTABLISHING SERVICE IN THE
 14 UNIFORMED SERVICES.—To establish that an alien has
 15 served in the Uniformed Services for at least 2 years and,
 16 if discharged, received an honorable discharge, the alien
 17 shall submit to the Secretary—

18 (1) a Department of Defense form DD-214;

19 (2) a National Guard Report of Separation and
 20 Record of Service form 22;

21 (3) personnel records for such service from the
 22 appropriate Uniformed Service; or

23 (4) health records from the appropriate Uni-
 24 formed Service.

25 (k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

1 (1) IN GENERAL.—An alien may satisfy the em-
2 ployment requirement under section 5(a)(1)(C)(iii)
3 by submitting records that—

4 (A) establish compliance with such employ-
5 ment requirement; and

6 (B) have been maintained by the Social Se-
7 curity Administration, the Internal Revenue
8 Service, or any other Federal, State, or local
9 government agency.

10 (2) OTHER DOCUMENTS.—An alien who is un-
11 able to submit the records described in paragraph
12 (1) may satisfy the employment requirement by sub-
13 mitting at least 2 types of reliable documents that
14 provide evidence of employment, including—

15 (A) bank records;

16 (B) business records;

17 (C) employer records;

18 (D) records of a labor union, day labor
19 center, or organization that assists workers in
20 employment;

21 (E) sworn affidavits from individuals who
22 are not related to the alien and who have direct
23 knowledge of the alien's work, that contain—

24 (i) the name, address, and telephone
25 number of the affiant; and

1 (ii) the nature and duration of the re-
 2 lationship between the affiant and the
 3 alien; and

4 (F) remittance records.

5 (I) AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-
 6 UMENTS.—If the Secretary determines, after publication
 7 in the Federal Register and an opportunity for public com-
 8 ment, that any document or class of documents does not
 9 reliably establish identity or that permanent resident sta-
 10 tus on a conditional basis is being obtained fraudulently
 11 to an unacceptable degree, the Secretary may prohibit or
 12 restrict the use of such document or class of documents.

13 **SEC. 7. RULEMAKING.**

14 (a) INITIAL PUBLICATION.—Not later than 90 days
 15 after the date of the enactment of this Act, the Secretary
 16 shall publish regulations implementing this Act in the
 17 Federal Register. Such regulations shall allow eligible indi-
 18 viduals to immediately apply affirmatively for the relief
 19 available under section 3 without being placed in removal
 20 proceedings.

21 (b) INTERIM REGULATIONS.—Notwithstanding sec-
 22 tion 553 of title 5, United States Code, the regulations
 23 published pursuant to subsection (a) shall be effective, on
 24 an interim basis, immediately upon publication in the Fed-
 25 eral Register, but may be subject to change and revision

1 after public notice and opportunity for a period of public
2 comment.

3 (c) FINAL REGULATIONS.—Not later than 180 days
4 after the date on which interim regulations are published
5 under this section, the Secretary shall publish final regula-
6 tions implementing this Act.

7 (d) PAPERWORK REDUCTION ACT.—The require-
8 ments under chapter 35 of title 44, United States Code
9 (commonly known as the “Paperwork Reduction Act”),
10 shall not apply to any action to implement this Act.

11 **SEC. 8. CONFIDENTIALITY OF INFORMATION.**

12 (a) IN GENERAL.—The Secretary may not disclose
13 or use information provided in applications filed under this
14 Act or in requests for DACA for the purpose of immigra-
15 tion enforcement.

16 (b) REFERRALS PROHIBITED.—The Secretary may
17 not refer any individual who has been granted permanent
18 resident status on a conditional basis or who was granted
19 DACA to U.S. Immigration and Customs Enforcement,
20 U.S. Customs and Border Protection, or any designee of
21 either such entity.

22 (c) LIMITED EXCEPTION.—Notwithstanding sub-
23 sections (a) and (b), information provided in an applica-
24 tion for permanent resident status on a conditional basis

1 or a request for DACA may be shared with Federal secu-
 2 rity and law enforcement agencies—

3 (1) for assistance in the consideration of an ap-
 4 plication for permanent resident status on a condi-
 5 tional basis;

6 (2) to identify or prevent fraudulent claims;

7 (3) for national security purposes; or

8 (4) for the investigation or prosecution of any
 9 felony not related to immigration status.

10 (d) PENALTY.—Any person who knowingly uses, pub-
 11 lishes, or permits information to be examined in violation
 12 of this section shall be fined not more than \$10,000.

13 **SEC. 9. RESTORATION OF STATE OPTION TO DETERMINE**
 14 **RESIDENCY FOR PURPOSES OF HIGHER EDU-**
 15 **CATION BENEFITS.**

16 (a) IN GENERAL.—Section 505 of the Illegal Immi-
 17 gration Reform and Immigrant Responsibility Act of 1996
 18 (8 U.S.C. 1623) is repealed.

19 (b) EFFECTIVE DATE.—The repeal under subsection
 20 (a) shall take effect as if included in the original enact-
 21 ment of the Illegal Immigration Reform and Immigrant
 22 Responsibility Act of 1996 (division C of Public Law 104–
 23 208; 110 Stat. 3009–546).

○

115TH CONGRESS
1ST SESSION

H. R. 3440

To authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and who entered the United States as children and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2017

Ms. ROYBAL-ALLARD (for herself and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and who entered the United States as children and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dream Act of 2017”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

1 (1) IN GENERAL.—Except as otherwise specifi-
2 cally provided, any term used in this Act that is
3 used in the immigration laws shall have the meaning
4 given such term in the immigration laws.

5 (2) DACA.—The term “DACA” means de-
6 ferred action granted to an alien pursuant to the
7 Deferred Action for Childhood Arrivals program an-
8 nounced by President Obama on June 15, 2012.

9 (3) DISABILITY.—The term “disability” has the
10 meaning given such term in section 3(1) of the
11 Americans with Disabilities Act of 1990 (42 U.S.C.
12 12102(1)).

13 (4) EARLY CHILDHOOD EDUCATION PRO-
14 GRAM.—The term “early childhood education pro-
15 gram” has the meaning given such term in section
16 103 of the Higher Education Act of 1965 (20
17 U.S.C. 1003).

18 (5) ELEMENTARY SCHOOL; HIGH SCHOOL; SEC-
19 ONDARY SCHOOL.—The terms “elementary school”,
20 “high school”, and “secondary school” have the
21 meanings given such terms in section 8101 of the
22 Elementary and Secondary Education Act of 1965
23 (20 U.S.C. 7801).

24 (6) IMMIGRATION LAWS.—The term “immigra-
25 tion laws” has the meaning given such term in sec-

1 tion 101(a)(17) of the Immigration and Nationality
2 Act (8 U.S.C. 1101(a)(17)).

3 (7) INSTITUTION OF HIGHER EDUCATION.—The
4 term “institution of higher education”—

5 (A) except as provided in subparagraph
6 (B), has the meaning given such term in section
7 102 of the Higher Education Act of 1965 (20
8 U.S.C. 1002); and

9 (B) does not include an institution of high-
10 er education outside of the United States.

11 (8) PERMANENT RESIDENT STATUS ON A CON-
12 DITIONAL BASIS.—The term “permanent resident
13 status on a conditional basis” means status as an
14 alien lawfully admitted for permanent residence on
15 a conditional basis under this Act.

16 (9) POVERTY LINE.—The term “poverty line”
17 has the meaning given such term in section 673 of
18 the Community Services Block Grant Act (42 U.S.C.
19 9902).

20 (10) SECRETARY.—Except as otherwise specifi-
21 cally provided, the term “Secretary” means the Sec-
22 retary of Homeland Security.

23 (11) UNIFORMED SERVICES.—The term “Uni-
24 formed Services” has the meaning given the term

1 “uniformed services” in section 101(a) of title 10,
 2 United States Code.

3 **SEC. 3. PERMANENT RESIDENT STATUS ON A CONDITIONAL**
 4 **BASIS FOR CERTAIN LONG-TERM RESIDENTS**
 5 **WHO ENTERED THE UNITED STATES AS CHIL-**
 6 **DREN.**

7 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
 8 standing any other provision of law, an alien shall be con-
 9 sidered, at the time of obtaining the status of an alien
 10 lawfully admitted for permanent residence under this sec-
 11 tion, to have obtained such status on a conditional basis
 12 subject to the provisions under this Act.

13 (b) **REQUIREMENTS.**—

14 (1) **IN GENERAL.**—Notwithstanding any other
 15 provision of law, the Secretary shall cancel the re-
 16 moval of, and adjust to the status of an alien law-
 17 fully admitted for permanent residence on a condi-
 18 tional basis, an alien who is inadmissible or deport-
 19 able from the United States or is in temporary pro-
 20 tected status under section 244 of the Immigration
 21 and Nationality Act (8 U.S.C. 1254a), if—

22 (A) the alien has been continuously phys-
 23 ically present in the United States since the
 24 date that is 4 years before the date of the en-
 25 actment of this Act;

1 (B) the alien was younger than 18 years of
2 age on the date on which the alien initially en-
3 tered the United States;

4 (C) subject to paragraphs (2) and (3), the
5 alien—

6 (i) is not inadmissible under para-
7 graph (2), (3), (6)(E), (6)(G), (8),
8 (10)(A), (10)(C), or (10)(D) of section
9 212(a) of the Immigration and Nationality
10 Act (8 U.S.C. 1182(a));

11 (ii) has not ordered, incited, assisted,
12 or otherwise participated in the persecution
13 of any person on account of race, religion,
14 nationality, membership in a particular so-
15 cial group, or political opinion; and

16 (iii) has not been convicted of—

17 (I) any offense under Federal or
18 State law, other than a State offense
19 for which an essential element is the
20 alien's immigration status, that is
21 punishable by a maximum term of im-
22 prisonment of more than 1 year; or

23 (II) three or more offenses under
24 Federal or State law, other than State
25 offenses for which an essential ele-

1 ment is the alien's immigration sta-
2 tus, for which the alien was convicted
3 on different dates for each of the 3 of-
4 fenses and imprisoned for an aggre-
5 gate of 90 days or more; and

6 (D) the alien—

7 (i) has been admitted to an institution
8 of higher education;

9 (ii) has earned a high school diploma
10 or a commensurate alternative award from
11 a public or private high school, or has ob-
12 tained a general education development
13 certificate recognized under State law or a
14 high school equivalency diploma in the
15 United States; or

16 (iii) is enrolled in secondary school or
17 in an education program assisting students
18 in—

19 (I) obtaining a regular high
20 school diploma or its recognized equiv-
21 alent under State law; or

22 (II) in passing a general edu-
23 cational development exam, a high
24 school equivalence diploma examina-

1 tion, or other similar State-authorized
2 exam.

3 (2) WAIVER.—With respect to any benefit
4 under this Act, the Secretary may waive the grounds
5 of inadmissibility under paragraph (2), (6)(E),
6 (6)(G), or (10)(D) of section 212(a) of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1182(a)) for hu-
8 manitarian purposes or family unity or if the waiver
9 is otherwise in the public interest.

10 (3) TREATMENT OF EXPUNGED CONVIC-
11 TIONS.—An expunged conviction shall not automati-
12 cally be treated as an offense under paragraph (1).
13 The Secretary shall evaluate expunged convictions
14 on a case-by-case basis according to the nature and
15 severity of the offense to determine whether, under
16 the particular circumstances, the Secretary deter-
17 mines that the alien should be eligible for cancella-
18 tion of removal, adjustment to permanent resident
19 status on a conditional basis, or other adjustment of
20 status.

21 (4) DACA RECIPIENTS.—The Secretary shall
22 cancel the removal of, and adjust to the status of an
23 alien lawfully admitted for permanent residence on
24 a conditional basis, an alien who was granted DACA
25 unless the alien has engaged in conduct since the

1 alien was granted DACA that would make the alien
2 ineligible for DACA.

3 (5) APPLICATION FEE.—

4 (A) IN GENERAL.—The Secretary may re-
5 quire an alien applying for permanent resident
6 status on a conditional basis under this section
7 to pay a reasonable fee that is commensurate
8 with the cost of processing the application.

9 (B) EXEMPTION.—An applicant may be
10 exempted from paying the fee required under
11 subparagraph (A) if the alien—

12 (i)(I) is younger than 18 years of age;

13 (II) received total income, during the
14 12-month period immediately preceding the
15 date on which the alien files an application
16 under this section, that is less than 150
17 percent of the poverty line; and

18 (III) is in foster care or otherwise
19 lacking any parental or other familial sup-
20 port;

21 (ii) is younger than 18 years of age
22 and is homeless;

23 (iii)(I) cannot care for himself or her-
24 self because of a serious, chronic disability;
25 and

1 (II) received total income, during the
 2 12-month period immediately preceding the
 3 date on which the alien files an application
 4 under this section, that is less than 150
 5 percent of the poverty line; or

6 (iv)(I) during the 12-month period im-
 7 mediately preceding the date on which the
 8 alien files an application under this sec-
 9 tion, accumulated \$10,000 or more in debt
 10 as a result of unreimbursed medical ex-
 11 penses incurred by the alien or an imme-
 12 diate family member of the alien; and

13 (II) received total income, during the
 14 12-month period immediately preceding the
 15 date on which the alien files an application
 16 under this section, that is less than 150
 17 percent of the poverty line.

18 (6) SUBMISSION OF BIOMETRIC AND BIO-
 19 GRAPHIC DATA.—The Secretary may not grant an
 20 alien permanent resident status on a conditional
 21 basis under this section unless the alien submits bio-
 22 metric and biographic data, in accordance with pro-
 23 cedures established by the Secretary. The Secretary
 24 shall provide an alternative procedure for aliens who

1 are unable to provide such biometric or biographic
2 data because of a physical impairment.

3 (7) BACKGROUND CHECKS.—

4 (A) REQUIREMENT FOR BACKGROUND
5 CHECKS.—The Secretary shall utilize biometric,
6 biographic, and other data that the Secretary
7 determines appropriate—

8 (i) to conduct security and law en-
9 forcement background checks of an alien
10 seeking permanent resident status on a
11 conditional basis under this section; and

12 (ii) to determine whether there is any
13 criminal, national security, or other factor
14 that would render the alien ineligible for
15 such status.

16 (B) COMPLETION OF BACKGROUND
17 CHECKS.—The security and law enforcement
18 background checks of an alien required under
19 subparagraph (A) shall be completed, to the
20 satisfaction of the Secretary, before the date on
21 which the Secretary grants such alien perma-
22 nent resident status on a conditional basis
23 under this section.

24 (8) MEDICAL EXAMINATION.—

1 (A) REQUIREMENT.—An alien applying for
2 permanent resident status on a conditional
3 basis under this section shall undergo a medical
4 examination.

5 (B) POLICIES AND PROCEDURES.—The
6 Secretary, with the concurrence of the Sec-
7 retary of Health and Human Services, shall
8 prescribe policies and procedures for the nature
9 and timing of the examination required under
10 subparagraph (A).

11 (9) MILITARY SELECTIVE SERVICE.—An alien
12 applying for permanent resident status on a condi-
13 tional basis under this section shall establish that
14 the alien has registered under the Military Selective
15 Service Act (50 U.S.C. 3801 et seq.), if the alien is
16 subject to registration under such Act.

17 (c) DETERMINATION OF CONTINUOUS PRESENCE.—

18 (1) TERMINATION OF CONTINUOUS PERIOD.—
19 Any period of continuous physical presence in the
20 United States of an alien who applies for permanent
21 resident status on a conditional basis under this sec-
22 tion shall not terminate when the alien is served a
23 notice to appear under section 239(a) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1229(a)).

1 (2) TREATMENT OF CERTAIN BREAKS IN PRES-
2 ENCE.—

3 (A) IN GENERAL.—Except as provided in
4 subparagraphs (B) and (C), an alien shall be
5 considered to have failed to maintain contin-
6 uous physical presence in the United States
7 under subsection (b)(1)(A) if the alien has de-
8 parted from the United States for any period
9 exceeding 90 days or for any periods, in the ag-
10 gregate, exceeding 180 days.

11 (B) EXTENSIONS FOR EXTENUATING CIR-
12 CUMSTANCES.—The Secretary may extend the
13 time periods described in subparagraph (A) for
14 an alien who demonstrates that the failure to
15 timely return to the United States was due to
16 extenuating circumstances beyond the alien's
17 control, including the serious illness of the
18 alien, or death or serious illness of a parent,
19 grandparent, sibling, or child of the alien.

20 (C) TRAVEL AUTHORIZED BY THE SEC-
21 RETARY.—Any period of travel outside of the
22 United States by an alien that was authorized
23 by the Secretary may not be counted toward
24 any period of departure from the United States
25 under subparagraph (A).

1 (d) LIMITATION ON REMOVAL OF CERTAIN
2 ALIENS.—

3 (1) IN GENERAL.—The Secretary or the Attor-
4 ney General may not remove an alien who appears
5 prima facie eligible for relief under this section.

6 (2) ALIENS SUBJECT TO REMOVAL.—The Sec-
7 retary shall provide a reasonable opportunity to
8 apply for relief under this section to any alien who
9 requests such an opportunity or who appears prima
10 facie eligible for relief under this section if the alien
11 is in removal proceedings, is the subject of a final
12 removal order, or is the subject of a voluntary depar-
13 ture order.

14 (3) CERTAIN ALIENS ENROLLED IN ELEMEN-
15 TARY OR SECONDARY SCHOOL.—

16 (A) STAY OF REMOVAL.—The Attorney
17 General shall stay the removal proceedings of
18 an alien who—

19 (i) meets all the requirements under
20 subparagraphs (A), (B), and (C) of sub-
21 section (b)(1), subject to paragraphs (2)
22 and (3) of such subsection;

23 (ii) is at least 5 years of age; and

1 (iii) is enrolled in an elementary
2 school, a secondary school, or an early
3 childhood education program.

4 (B) COMMENCEMENT OF REMOVAL PRO-
5 CEEDINGS.—The Secretary may not commence
6 removal proceedings for an alien described in
7 subparagraph (A).

8 (C) EMPLOYMENT.—An alien whose re-
9 moval is stayed pursuant to subparagraph (A)
10 or who may not be placed in removal pro-
11 ceedings pursuant to subparagraph (B) shall,
12 upon application to the Secretary, be granted
13 an employment authorization document.

14 (D) LIFT OF STAY.—The Secretary or At-
15 torney General may not lift the stay granted to
16 an alien under subparagraph (A) unless the
17 alien ceases to meet the requirements under
18 such subparagraph.

19 (e) EXEMPTION FROM NUMERICAL LIMITATIONS.—
20 Nothing in this section or in any other law may be con-
21 strued to apply a numerical limitation on the number of
22 aliens who may be granted permanent resident status on
23 a conditional basis under this Act.

1 **SEC. 4. TERMS OF PERMANENT RESIDENT STATUS ON A**
 2 **CONDITIONAL BASIS.**

3 (a) PERIOD OF STATUS.—Permanent resident status
 4 on a conditional basis is—

5 (1) valid for a period of 8 years, unless such pe-
 6 riod is extended by the Secretary; and

7 (2) subject to termination under subsection (c).

8 (b) NOTICE OF REQUIREMENTS.—At the time an
 9 alien obtains permanent resident status on a conditional
 10 basis, the Secretary shall provide notice to the alien re-
 11 garding the provisions of this Act and the requirements
 12 to have the conditional basis of such status removed.

13 (c) TERMINATION OF STATUS.—The Secretary may
 14 terminate the permanent resident status on a conditional
 15 basis of an alien only if the Secretary—

16 (1) determines that the alien ceases to meet the
 17 requirements under paragraph (1)(C) of section
 18 3(b), subject to paragraphs (2) and (3) of that sec-
 19 tion; and

20 (2) prior to the termination, provides the
 21 alien—

22 (A) notice of the proposed termination;
 23 and

24 (B) the opportunity for a hearing to pro-
 25 vide evidence that the alien meets such require-
 26 ments or otherwise contest the termination.

1 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), an alien whose permanent resident status
4 on a conditional basis expires under subsection
5 (a)(1) or is terminated under subsection (c) or
6 whose application for such status is denied shall re-
7 turn to the immigration status that the alien had
8 immediately before receiving permanent resident sta-
9 tus on a conditional basis or applying for such sta-
10 tus, as appropriate.

11 (2) SPECIAL RULE FOR TEMPORARY PRO-
12 TECTED STATUS.—An alien whose permanent resi-
13 dent status on a conditional basis expires under sub-
14 section (a)(1) or is terminated under subsection (c)
15 or whose application for such status is denied and
16 who had temporary protected status under section
17 244 of the Immigration and Nationality Act (8
18 U.S.C. 1254a) immediately before receiving or ap-
19 plying for such permanent resident status on a con-
20 ditional basis, as appropriate, may not return to
21 such temporary protected status if—

22 (A) the relevant designation under section
23 244(b) of the Immigration and Nationality Act
24 (8 U.S.C. 1254a(b)) has been terminated; or

1 (B) the Secretary determines that the rea-
 2 son for terminating the permanent resident sta-
 3 tus on a conditional basis renders the alien in-
 4 eligible for such temporary protected status.

5 **SEC. 5. REMOVAL OF CONDITIONAL BASIS OF PERMANENT**
 6 **RESIDENT STATUS.**

7 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
 8 BASIS.—

9 (1) IN GENERAL.—Subject to paragraph (2),
 10 the Secretary shall remove the conditional basis of
 11 an alien’s permanent resident status granted under
 12 this Act and grant the alien status as an alien law-
 13 fully admitted for permanent residence if the alien—

14 (A) is described in paragraph (1)(C) of
 15 section 3(b), subject to paragraphs (2) and (3)
 16 of that section;

17 (B) has not abandoned the alien’s resi-
 18 dence in the United States; and

19 (C)(i) has acquired a degree from an insti-
 20 tution of higher education or has completed at
 21 least 2 years, in good standing, in a program
 22 for a bachelor’s degree or higher degree in the
 23 United States;

1 (ii) has served in the Uniformed Services
2 for at least 2 years and, if discharged, received
3 an honorable discharge; or

4 (iii) has been employed for periods totaling
5 at least 3 years and at least 75 percent of the
6 time that the alien has had a valid employment
7 authorization, except that any period during
8 which the alien is not employed while having a
9 valid employment authorization and is enrolled
10 in an institution of higher education, a sec-
11 ondary school, or an education program de-
12 scribed in section 3(b)(1)(D)(iii), shall not
13 count toward the time requirements under this
14 clause.

15 (2) HARDSHIP EXCEPTION.—

16 (A) IN GENERAL.—The Secretary shall re-
17 move the conditional basis of an alien’s perma-
18 nent resident status and grant the alien status
19 as an alien lawfully admitted for permanent
20 residence if the alien—

21 (i) satisfies the requirements under
22 subparagraphs (A) and (B) of paragraph
23 (1);

24 (ii) demonstrates compelling cir-
25 cumstances for the inability to satisfy the

1 requirements under subparagraph (C) of
2 such paragraph; and

3 (iii) demonstrates that—

4 (I) the alien has a disability;

5 (II) the alien is a full-time care-
6 giver of a minor child; or

7 (III) the removal of the alien
8 from the United States would result
9 in extreme hardship to the alien or
10 the alien's spouse, parent, or child
11 who is a national of the United States
12 or is lawfully admitted for permanent
13 residence.

14 (3) CITIZENSHIP REQUIREMENT.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the conditional basis of an
17 alien's permanent resident status granted under
18 this Act may not be removed unless the alien
19 demonstrates that the alien satisfies the re-
20 quirements under section 312(a) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1423(a)).

22 (B) EXCEPTION.—Subparagraph (A) shall
23 not apply to an alien who is unable to meet the
24 requirements under such section 312(a) due to
25 disability.

1 (4) APPLICATION FEE.—

2 (A) IN GENERAL.—The Secretary may re-
3 quire aliens applying for lawful permanent resi-
4 dent status under this section to pay a reason-
5 able fee that is commensurate with the cost of
6 processing the application.

7 (B) EXEMPTION.—An applicant may be
8 exempted from paying the fee required under
9 subparagraph (A) if the alien—

10 (i)(I) is younger than 18 years of age;

11 (II) received total income, during the
12 12-month period immediately preceding the
13 date on which the alien files an application
14 under this section, that is less than 150
15 percent of the poverty line; and

16 (III) is in foster care or otherwise
17 lacking any parental or other familial sup-
18 port;

19 (ii) is younger than 18 years of age
20 and is homeless;

21 (iii)(I) cannot care for himself or her-
22 self because of a serious, chronic disability;
23 and

24 (II) received total income, during the
25 12-month period immediately preceding the

1 date on which the alien files an application
2 under this section, that is less than 150
3 percent of the poverty line; or

4 (iv)(I) during the 12-month period im-
5 mediately preceding the date on which the
6 alien files an application under this sec-
7 tion, the alien accumulated \$10,000 or
8 more in debt as a result of unreimbursed
9 medical expenses incurred by the alien or
10 an immediate family member of the alien;
11 and

12 (II) received total income, during the
13 12-month period immediately preceding the
14 date on which the alien files an application
15 under this section, that is less than 150
16 percent of the poverty line.

17 (5) SUBMISSION OF BIOMETRIC AND BIO-
18 GRAPHIC DATA.—The Secretary may not remove the
19 conditional basis of an alien’s permanent resident
20 status unless the alien submits biometric and bio-
21 graphic data, in accordance with procedures estab-
22 lished by the Secretary. The Secretary shall provide
23 an alternative procedure for applicants who are un-
24 able to provide such biometric data because of a
25 physical impairment.

1 (6) BACKGROUND CHECKS.—

2 (A) REQUIREMENT FOR BACKGROUND
3 CHECKS.—The Secretary shall utilize biometric,
4 biographic, and other data that the Secretary
5 determines appropriate—

6 (i) to conduct security and law en-
7 forcement background checks of an alien
8 applying for removal of the conditional
9 basis of the alien’s permanent resident sta-
10 tus; and

11 (ii) to determine whether there is any
12 criminal, national security, or other factor
13 that would render the alien ineligible for
14 removal of such conditional basis.

15 (B) COMPLETION OF BACKGROUND
16 CHECKS.—The security and law enforcement
17 background checks of an alien required under
18 subparagraph (A) shall be completed, to the
19 satisfaction of the Secretary, before the date on
20 which the Secretary removes the conditional
21 basis of the alien’s permanent resident status.

22 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
23 TION.—

24 (1) IN GENERAL.—For purposes of title III of
25 the Immigration and Nationality Act (8 U.S.C. 1401

1 et seq.), an alien granted permanent resident status
 2 on a conditional basis shall be considered to have
 3 been admitted to the United States, and be present
 4 in the United States, as an alien lawfully admitted
 5 for permanent residence.

6 (2) LIMITATION ON APPLICATION FOR NATU-
 7 RALIZATION.—An alien may not apply for natu-
 8 ralization while the alien is in permanent resident
 9 status on a conditional basis.

10 **SEC. 6. DOCUMENTATION REQUIREMENTS.**

11 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
 12 alien’s application for permanent resident status on a con-
 13 ditional basis may include, as proof of identity—

14 (1) a passport or national identity document
 15 from the alien’s country of origin that includes the
 16 alien’s name and the alien’s photograph or finger-
 17 print;

18 (2) the alien’s birth certificate and an identity
 19 card that includes the alien’s name and photograph;

20 (3) a school identification card that includes the
 21 alien’s name and photograph, and school records
 22 showing the alien’s name and that the alien is or
 23 was enrolled at the school;

24 (4) a Uniformed Services identification card
 25 issued by the Department of Defense;

1 (5) any immigration or other document issued
2 by the United States Government bearing the alien's
3 name and photograph; or

4 (6) a State-issued identification card bearing
5 the alien's name and photograph.

6 (b) DOCUMENTS ESTABLISHING CONTINUOUS PHYS-
7 ICAL PRESENCE IN THE UNITED STATES.—To establish
8 that an alien has been continuously physically present in
9 the United States, as required under section 3(b)(1)(A),
10 or to establish that an alien has not abandoned residence
11 in the United States, as required under section 5(a)(1)(B),
12 the alien may submit documents to the Secretary, includ-
13 ing—

14 (1) employment records that include the em-
15 ployer's name and contact information;

16 (2) records from any educational institution the
17 alien has attended in the United States;

18 (3) records of service from the Uniformed Serv-
19 ices;

20 (4) official records from a religious entity con-
21 firming the alien's participation in a religious cere-
22 mony;

23 (5) passport entries;

24 (6) a birth certificate for a child who was born
25 in the United States;

- 1 (7) automobile license receipts or registration;
- 2 (8) deeds, mortgages, or rental agreement con-
- 3 tracts;
- 4 (9) tax receipts;
- 5 (10) insurance policies;
- 6 (11) remittance records;
- 7 (12) rent receipts or utility bills bearing the
- 8 alien's name or the name of an immediate family
- 9 member of the alien, and the alien's address;
- 10 (13) copies of money order receipts for money
- 11 sent in or out of the United States;
- 12 (14) dated bank transactions; or
- 13 (15) two or more sworn affidavits from individ-
- 14 uals who are not related to the alien who have direct
- 15 knowledge of the alien's continuous physical pres-
- 16 ence in the United States, that contain—
- 17 (A) the name, address, and telephone num-
- 18 ber of the affiant; and
- 19 (B) the nature and duration of the rela-
- 20 tionship between the affiant and the alien.
- 21 (c) DOCUMENTS ESTABLISHING INITIAL ENTRY
- 22 INTO THE UNITED STATES.—To establish under section
- 23 3(b)(1)(B) that an alien was younger than 18 years of
- 24 age on the date on which the alien initially entered the

1 United States, an alien may submit documents to the Sec-
2 retary, including—

3 (1) an admission stamp on the alien’s passport;

4 (2) records from any educational institution the
5 alien has attended in the United States;

6 (3) any document from the Department of Jus-
7 tice or the Department of Homeland Security stat-
8 ing the alien’s date of entry into the United States;

9 (4) hospital or medical records showing medical
10 treatment or hospitalization, the name of the med-
11 ical facility or physician, and the date of the treat-
12 ment or hospitalization;

13 (5) rent receipts or utility bills bearing the
14 alien’s name or the name of an immediate family
15 member of the alien, and the alien’s address;

16 (6) employment records that include the em-
17 ployer’s name and contact information;

18 (7) official records from a religious entity con-
19 firming the alien’s participation in a religious cere-
20 mony;

21 (8) a birth certificate for a child who was born
22 in the United States;

23 (9) automobile license receipts or registration;

24 (10) deeds, mortgages, or rental agreement con-
25 tracts;

- 1 (11) tax receipts;
- 2 (12) travel records;
- 3 (13) copies of money order receipts sent in or
4 out of the country;
- 5 (14) dated bank transactions;
- 6 (15) remittance records; or
- 7 (16) insurance policies.

8 (d) DOCUMENTS ESTABLISHING ADMISSION TO AN
9 INSTITUTION OF HIGHER EDUCATION.—To establish that
10 an alien has been admitted to an institution of higher edu-
11 cation, the alien shall submit to the Secretary a document
12 from the institution of higher education certifying that the
13 alien—

- 14 (1) has been admitted to the institution; or
- 15 (2) is currently enrolled in the institution as a
16 student.

17 (e) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
18 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—
19 To establish that an alien has acquired a degree from an
20 institution of higher education in the United States, the
21 alien shall submit to the Secretary a diploma or other doc-
22 ument from the institution stating that the alien has re-
23 ceived such a degree.

24 (f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH
25 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-

1 MENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—
 2 To establish that an alien has earned a high school di-
 3 ploma or a commensurate alternative award from a public
 4 or private high school, or has obtained a general edu-
 5 cational development certificate recognized under State
 6 law or a high school equivalency diploma in the United
 7 States, the alien shall submit to the Secretary—

8 (1) a high school diploma, certificate of comple-
 9 tion, or other alternate award;

10 (2) a high school equivalency diploma or certifi-
 11 cate recognized under State law; or

12 (3) evidence that the alien passed a State-au-
 13 thorized exam, including the general educational de-
 14 velopment exam, in the United States.

15 (g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
 16 EDUCATIONAL PROGRAM.—To establish that an alien is
 17 enrolled in any school or education program described in
 18 section 3(b)(1)(D)(iii), 3(d)(3)(A)(iii), or 5(a)(1)(C), the
 19 alien shall submit school records from the United States
 20 school that the alien is currently attending that include—

21 (1) the name of the school; and

22 (2) the alien's name, periods of attendance, and
 23 current grade or educational level.

24 (h) DOCUMENTS ESTABLISHING EXEMPTION FROM
 25 APPLICATION FEES.—To establish that an alien is exempt

1 from an application fee under section 3(b)(5)(B) or
2 5(a)(4)(B), the alien shall submit to the Secretary the fol-
3 lowing relevant documents:

4 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
5 tablish that an alien meets an age requirement, the
6 alien shall provide proof of identity, as described in
7 subsection (a), that establishes that the alien is
8 younger than 18 years of age.

9 (2) DOCUMENTS TO ESTABLISH INCOME.—To
10 establish the alien’s income, the alien shall provide—

11 (A) employment records that have been
12 maintained by the Social Security Administra-
13 tion, the Internal Revenue Service, or any other
14 Federal, State, or local government agency;

15 (B) bank records; or

16 (C) at least 2 sworn affidavits from indi-
17 viduals who are not related to the alien and
18 who have direct knowledge of the alien’s work
19 and income that contain—

20 (i) the name, address, and telephone
21 number of the affiant; and

22 (ii) the nature and duration of the re-
23 lationship between the affiant and the
24 alien.

1 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
 2 LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR
 3 SERIOUS, CHRONIC DISABILITY.—To establish that
 4 the alien was in foster care, lacks parental or famil-
 5 ial support, is homeless, or has a serious, chronic
 6 disability, the alien shall provide at least 2 sworn af-
 7 fidavits from individuals who are not related to the
 8 alien and who have direct knowledge of the cir-
 9 cumstances that contain—

10 (A) a statement that the alien is in foster
 11 care, otherwise lacks any parental or other fa-
 12 miliar support, is homeless, or has a serious,
 13 chronic disability, as appropriate;

14 (B) the name, address, and telephone num-
 15 ber of the affiant; and

16 (C) the nature and duration of the rela-
 17 tionship between the affiant and the alien.

18 (4) DOCUMENTS TO ESTABLISH UNPAID MED-
 19 ICAL EXPENSE.—To establish that the alien has debt
 20 as a result of unreimbursed medical expenses, the
 21 alien shall provide receipts or other documentation
 22 from a medical provider that—

23 (A) bear the provider's name and address;

24 (B) bear the name of the individual receiv-
 25 ing treatment; and

1 (C) document that the alien has accumu-
 2 lated \$10,000 or more in debt in the past 12
 3 months as a result of unreimbursed medical ex-
 4 penses incurred by the alien or an immediate
 5 family member of the alien.

6 (i) DOCUMENTS ESTABLISHING QUALIFICATION FOR
 7 HARDSHIP EXEMPTION.—To establish that an alien satis-
 8 fies one of the criteria for the hardship exemption set forth
 9 in section 5(a)(2)(A)(iii), the alien shall submit to the Sec-
 10 retary at least 2 sworn affidavits from individuals who are
 11 not related to the alien and who have direct knowledge
 12 of the circumstances that warrant the exemption, that
 13 contain—

14 (1) the name, address, and telephone number of
 15 the affiant; and

16 (2) the nature and duration of the relationship
 17 between the affiant and the alien.

18 (j) DOCUMENTS ESTABLISHING SERVICE IN THE
 19 UNIFORMED SERVICES.—To establish that an alien has
 20 served in the Uniformed Services for at least 2 years and,
 21 if discharged, received an honorable discharge, the alien
 22 shall submit to the Secretary—

23 (1) a Department of Defense form DD-214;

24 (2) a National Guard Report of Separation and
 25 Record of Service form 22;

1 (3) personnel records for such service from the
2 appropriate Uniformed Service; or

3 (4) health records from the appropriate Uni-
4 formed Service.

5 (k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

6 (1) IN GENERAL.—An alien may satisfy the em-
7 ployment requirement under section 5(a)(1)(C)(iii)
8 by submitting records that—

9 (A) establish compliance with such employ-
10 ment requirement; and

11 (B) have been maintained by the Social Se-
12 curity Administration, the Internal Revenue
13 Service, or any other Federal, State, or local
14 government agency.

15 (2) OTHER DOCUMENTS.—An alien who is un-
16 able to submit the records described in paragraph
17 (1) may satisfy the employment requirement by sub-
18 mitting at least 2 types of reliable documents that
19 provide evidence of employment, including—

20 (A) bank records;

21 (B) business records;

22 (C) employer records;

23 (D) records of a labor union, day labor
24 center, or organization that assists workers in
25 employment;

1 (E) sworn affidavits from individuals who
 2 are not related to the alien and who have direct
 3 knowledge of the alien's work, that contain—

4 (i) the name, address, and telephone
 5 number of the affiant; and

6 (ii) the nature and duration of the re-
 7 lationship between the affiant and the
 8 alien; and

9 (F) remittance records.

10 (I) AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-
 11 UMENTS.—If the Secretary determines, after publication
 12 in the Federal Register and an opportunity for public com-
 13 ment, that any document or class of documents does not
 14 reliably establish identity or that permanent resident sta-
 15 tus on a conditional basis is being obtained fraudulently
 16 to an unacceptable degree, the Secretary may prohibit or
 17 restrict the use of such document or class of documents.

18 **SEC. 7. RULEMAKING.**

19 (a) INITIAL PUBLICATION.—Not later than 90 days
 20 after the date of the enactment of this Act, the Secretary
 21 shall publish regulations implementing this Act in the
 22 Federal Register. Such regulations shall allow eligible indi-
 23 viduals to immediately apply affirmatively for the relief
 24 available under section 3 without being placed in removal
 25 proceedings.

1 (b) INTERIM REGULATIONS.—Notwithstanding sec-
2 tion 553 of title 5, United States Code, the regulations
3 published pursuant to subsection (a) shall be effective, on
4 an interim basis, immediately upon publication in the Fed-
5 eral Register, but may be subject to change and revision
6 after public notice and opportunity for a period of public
7 comment.

8 (c) FINAL REGULATIONS.—Not later than 180 days
9 after the date on which interim regulations are published
10 under this section, the Secretary shall publish final regula-
11 tions implementing this Act.

12 (d) PAPERWORK REDUCTION ACT.—The require-
13 ments under chapter 35 of title 44, United States Code,
14 (commonly known as the “Paperwork Reduction Act”)
15 shall not apply to any action to implement this Act.

16 **SEC. 8. CONFIDENTIALITY OF INFORMATION.**

17 (a) IN GENERAL.—The Secretary may not disclose
18 or use information provided in applications filed under this
19 Act or in requests for DACA for the purpose of immigra-
20 tion enforcement.

21 (b) REFERRALS PROHIBITED.—The Secretary may
22 not refer any individual who has been granted permanent
23 resident status on a conditional basis or who was granted
24 DACA to U.S. Immigration and Customs Enforcement,

1 U.S. Customs and Border Protection, or any designee of
2 either such entity.

3 (c) LIMITED EXCEPTION.—Notwithstanding sub-
4 sections (a) and (b), information provided in an applica-
5 tion for permanent resident status on a conditional basis
6 or a request for DACA may be shared with Federal secu-
7 rity and law enforcement agencies—

8 (1) for assistance in the consideration of an ap-
9 plication for permanent resident status on a condi-
10 tional basis;

11 (2) to identify or prevent fraudulent claims;

12 (3) for national security purposes; or

13 (4) for the investigation or prosecution of any
14 felony not related to immigration status.

15 (d) PENALTY.—Any person who knowingly uses, pub-
16 lishes, or permits information to be examined in violation
17 of this section shall be fined not more than \$10,000.

18 **SEC. 9. RESTORATION OF STATE OPTION TO DETERMINE**
19 **RESIDENCY FOR PURPOSES OF HIGHER EDU-**
20 **CATION BENEFITS.**

21 (a) IN GENERAL.—Section 505 of the Illegal Immi-
22 gration Reform and Immigrant Responsibility Act of 1996
23 (8 U.S.C. 1623) is repealed.

24 (b) EFFECTIVE DATE.—The repeal under subsection
25 (a) shall take effect as if included in the original enact-

1 ment of the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996 (division C of Public Law 104–
3 208; 110 Stat. 3009–546).

○



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: March 13, 2018
AGENDA #: 8
STAFF: MICHAEL CAMARENA, DIRECTOR OF CITY SERVICES

AGENDA ITEM

TITLE Hermosa Street/Westwood Avenue Roundabout Project

ACTION Request Authorization to Bid

PURPOSE Statutory/Contractual Requirement

COUNCIL OBJECTIVE(S) Live in a safe, clean, comfortable and healthy environment.
Nurture attractive residential neighborhoods and business districts.

RECOMMENDATION

Staff recommends Council authorize release of notice of bid documents for the proposed roundabout at Hermosa Street and Westwood Avenue.

BACKGROUND | ANALYSIS

Project consultant, Omni Means, A GHD Company, is preparing the construction documents for the referenced project. As funding provided for the project by Self Help Enterprises has timeline milestones to be met, staff is requesting the authorization to bid the project once the construction documents (plans and specifications) are completed. It is anticipated that bidding process will occur in April 2018 with bid award recommendation to be presented to Council in May 2018 and construction to begin in June 2018.

ALTERNATIVES

1. None presented at this time.

ENVIRONMENTAL REVIEW

Previously completed, approved and filed with Tulare County.

POLICY ISSUES

None



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: March 13, 2018
AGENDA #: 8
STAFF: MICHAEL CAMARENA, DIRECTOR OF CITY SERVICES

PUBLIC OUTREACH

Posted in this agenda.

Multiple public and community organization informational meetings have been held beginning in 2017 and continue still and as requested.

ATTACHMENTS

- Cover page of construction plans for Proposed Roundabout at Hermosa Street and Westwood Avenue

CITY OF LINDSAY

PROJECT PLANS FOR THE CONSTRUCTION OF THE
HERMOSA STREET/WESTWOOD AVENUE
ROUNDBABOUT

TO BE SUPPLEMENTED BY CALIFORNIA DEPARTMENT OF TRANSPORTATION
STANDARD PLANS AND STANDARD SPECIFICATIONS DATED 2015

INDEX OF SHEETS

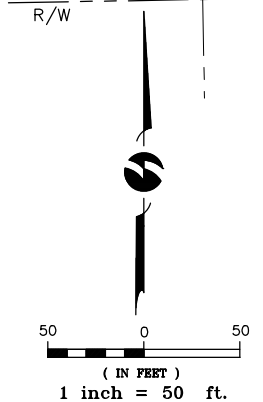
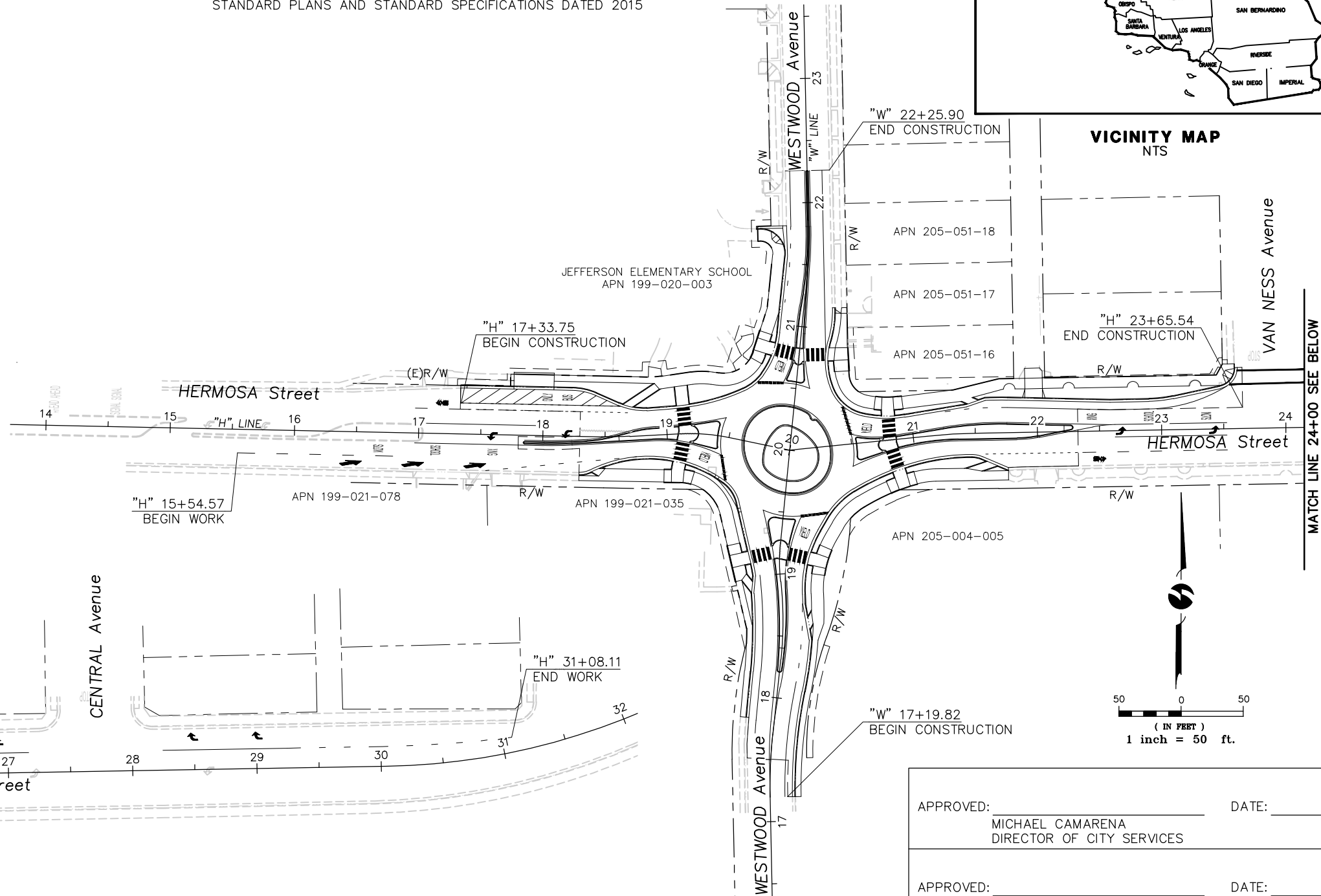
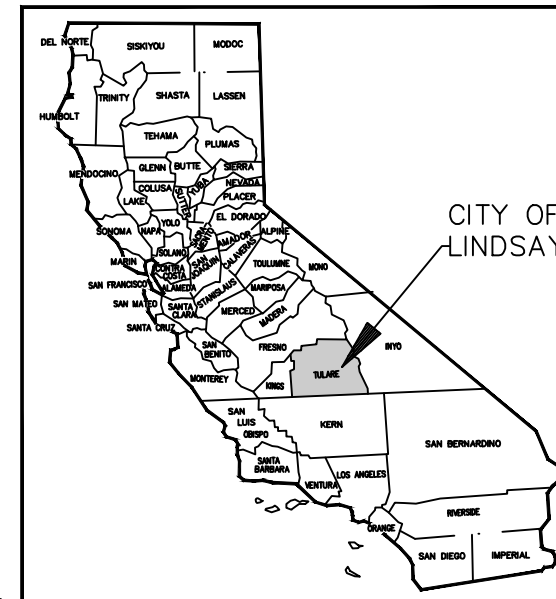
PAGE	SHEET	DESCRIPTION
1	T1	TITLE SHEET
2-4	X1-X3	TYPICAL SECTIONS
5-6	DM1-DM2	DEMOLITION PLAN
7	K1	KEY MAP & PROJECT CONTROL
8-9	L1-L2	LAYOUT
10	P1	CENTERLINE PROFILES
11	P2	CURB PROFILES
12-18	C1-C7	CONSTRUCTION DETAILS
19-20	G1-G2	CONTOUR GRADING
21-22	U1-U2	UTILITY PLAN
23-24	D1-D2	DRAINAGE PLAN
25	D3	DRAINAGE PROFILES
26	CS1	CONSTRUCTION AREA SIGNS
27-33	SC1-SC7	STAGE CONSTRUCTION
34-36	PD1-PD3	PAVEMENT DELINEATION PLAN
37-39	S1-S3	SIGN PLAN
40	SD1	SIGN DETAILS
41-42	SQ1-SQ2	SIGN QUANTITIES
		PLANTING PLANS
		IRRIGATION PLANS
43-44	E1-E2	STREET LIGHTING PLAN

BASIS OF BEARINGS

THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 12, T.20S., R.26E., M.D.B. & M. TAKEN AS S 88°46'53" E PER RECORD OF SURVEY AS RECORDED IN BOOK 17, PAGE 85 OF LICENSED SURVEYS, T.C.R.

BENCH MARK

CITY BENCH MARK NO. 68 EAST END CURB RETURN AT SOUTHEAST CORNER CENTRAL AND KERN ELEVATION: 372.57 (NGVD 29)



LOCATION MAP
SCALE: 1"=50'

APPROVED: _____	DATE: _____
MICHAEL CAMARENA DIRECTOR OF CITY SERVICES	
APPROVED: _____	DATE: _____
J. MICHAEL LANE, R.C.E. 17064 CITY ENGINEER	
APPROVED: _____	DATE: _____
JOSEPH W. WEILAND, P.E. PROJECT ENGINEER	

NO.	REVISION	DATE	BY

omni-means
A GHD Company

San Luis Obispo
San Luis Obispo, CA 93401
www.omni-means.com

TITLE SHEET
80% PLAN SET
HERMOSA ST/ WESTWOOD AVE ROUNDABOUT
CITY OF LINDSAY
LINDSAY, CALIFORNIA



SCALE	AS SHOWN
JOB NO.	11151288
DESIGNED	SMH
DRAWN	SMH
FILE	2422T001.dwg
CHECKED	JWW
DATE	2/12/18

811
Know what's below.
Call before you dig.

Contractor shall call
Underground Service Alert at
811 or 800-485-3119
to excavation

80% SUBMITTAL
PRELIMINARY, NOT
FOR CONSTRUCTION



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 9
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, MBUELNA@LINDSAY.CA.US

AGENDA ITEM

TITLE Ordinance No. 563

ACTION Add Municipal Code Chapter 1.18 Administrative Citations, Sections 1.18.010 through 1.18.150 to enforce municipal codes within the city.

PURPOSE 2nd Reading, Discretionary Action

COUNCIL OBJECTIVE(S) Live in a safe, clean, comfortable and healthy environment.
Increase our keen sense of identity in a physically connected and involved community.
Nurture attractive residential neighborhoods and business districts.
Dedicate resources to retain a friendly, small-town atmosphere.
Yield a fiscally self-reliant city government while providing effective, basic municipal services.

RECOMMENDATION

Staff Recommends Approval

BACKGROUND | ANALYSIS

Ordinance No. 563 is a request by City Staff to amend sections 1.18.010 and 1.18.150 of the Lindsay Municipal Code to enforce municipal codes within City of Lindsay. The proposed amendment reads as follows:

Proposed Amendment

1. Proposed deleted text is shown in ~~striketrough~~ text.
 2. Proposed new text is shown in *underline italic* text.
 3. Commentary (not part of the proposed ordinance, but provided for explanation and background/rationale purposes) is shown in **highlighted italic** text.
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STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 9
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, MBUELNA@LINDSAY.CA.US

Chapter 1.18

ADMINISTRATIVE CITATIONS

Sections:

<u>1.18.010</u>	<u>LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE</u>
<u>1.18.020</u>	<u>DEFINITIONS</u>
<u>1.18.030</u>	<u>AUTHORITY</u>
<u>1.18.040</u>	<u>VIOLATIONS, PENELATIES AND ENFORCEMENT</u>
<u>1.18.050</u>	<u>SERVICE PROCEDURES</u>
<u>1.18.060</u>	<u>CONTENTS OF NOTICE</u>
<u>1.18.070</u>	<u>SATISFACTION OF ADMINISTRATIVE CITATION</u>
<u>1.18.080</u>	<u>APPEAL OF ADMINISTRATIVE CITATION</u>
<u>1.18.090</u>	<u>HEARING OFFICER</u>
<u>1.18.100</u>	<u>HEARING PROCEDURE</u>
<u>1.18.110</u>	<u>HEARING OFFICERS DECISION</u>
<u>1.18.120</u>	<u>FAILURE TO PAY FINES</u>
<u>1.18.130</u>	<u>RIGHT TO JUDICIAL REVIEW</u>
<u>1.18.140</u>	<u>NOTICES</u>
<u>1.18.150</u>	<u>SEVERABILITY</u>

The proposed table of contents outlines clear and concise titles for the proposed sections to aid in ease of readability and referencing.

1.18.010 **Legislative findings and statement of purpose.**

A. Alternative Method of Enforcement: The city council hereby finds that there is a need for an alternative method of enforcement for minor violations of this code, or state codes specifically adopted by reference in the applicable chapters of this code. The city council further finds that an appropriate method of enforcement for minor violations is and administrative citation program as authorized by Government Code section 53069.4.



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B. Procedures Additional to Other Remedies: The procedures established in this article shall be in addition to criminal, civil or any other legal remedy established by law, which may be pursued to address violations of this code and state codes specifically adopted by reference in the applicable chapters of this code.

C. City Goals: The city council hereby finds and determines that enforcement of this code, other ordinance adopted by the city, conditions on entitlements and terms and condition of city agreements are matters of local concern and serve important public purposes. Consistent with its powers as a charter city, the city of Lindsay adopts this administrative citation program provision in order to achieve the following goals, and:

- 1. To protect the public health, safety and welfare of the citizens of the city;*
- 2. To gain compliance with this code and state codes specifically adopted by reference in the applicable chapters of this code in a timely and efficient manner;*
- 3. To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of this code and state codes specifically adopted by reference in the applicable chapters of this codes;*
- 4. To minimize the expense and delay where the sole remedy is to pursue responsible parties in the civil or criminal justice system;*
- 5. To provide for an administrative process to appeal the imposition of administrative citations and fines.*

D. Purpose: The purpose of this article is to enable the city, acting as a charter city pursuant to article XI, sections 5 and 7 of the state constitution, to impose and collect civil administrative fines in conjunction with the enforcement of provisions of this code or state codes specifically adopted by reference in the applicable chapters of this code. Notwithstanding the provisions herein, the city has, and shall continue to employ, the philosophy of voluntary compliance when seeking compliance with this code and state codes specifically adopted by reference in the applicable chapters of this code.

E. Voluntary Compliance: Prior to the implementation of the enforcement policies and penalties stated herein, voluntary compliance approaches, when practical, should first be used in order to educate city property owners and businesses concerning the requirements of this code, or state codes specifically adopted by reference in the applicable chapters of this code, and the corrective action necessary to correct a violation of this code and state codes specifically adopted by reference in the applicable chapters of this code.

F. Use of Provisions Discretionary: Use of this article shall be at the sole discretion of the city.



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1.18.020 **Definitions**

The following terms shall mean:

ENFORCEMENT OFFICER: Any officer or employee with the authority to enforce this code, and state codes specifically adopted by reference in the applicable chapters of this code.

HEARING OFFICER: Any person appointed by the city manager to preside over the administrative hearings provided for in this article.

RESPONSIBLE PERSON: Any individual or entity who is the registered owner or occupant of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen (18) years, who causes or maintains a violation of this code or state codes specifically adopted by reference in the applicable chapters of this code.

1.18.030 **Authority**

- A. Issuance of Citation: Any person violating any provision of this code, or state codes specifically adopted by reference in the applicable chapters of this code, may be issued an administrative citation by an enforcement officer as provided in this chapter. A violation of this code includes, but is not limited to: all violations of this code, and applicable state codes, ordinances or regulations adopted by the city council; or the failure to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved under the provisions of this code.
- B. Each Day a Separate Offense: Each and every day a violation exists may constitute a separate and distinct offense.
- C. Civil Fine: A civil fine shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the city of Lindsay.

1.18.040 **Violations, Penalties and Enforcement**

The city council of the city of Lindsay intends to secure compliance with the provisions of this code, and state codes specifically adopted by reference in the applicable chapters of this code. To the extent that such compliance may be achieved by less drastic methods of enforcement, the following alternate, separate and distinct methods may be utilized. Each method set forth herein is intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violations exist constitutes a separate offense. Notwithstanding any other provisions of this code, and state codes specifically adopted by reference in the applicable chapters of this code, each violation of the provisions of this code may be enforced alternatively as follows:

A. Misdemeanor: Unless otherwise specified in this code, any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, and state codes specifically adopted by reference in the applicable chapters of this code, may be prosecuted for a misdemeanor.



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Written citations for misdemeanors may be issued by police officers or by nonsafety employees designated by this code. Any person convicted of a misdemeanor under the provisions of this code, and state codes specifically adopted by reference in the applicable chapters of this code, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

B. Infraction: In the alternative, with the concurrence of the city attorney, any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, and state codes specifically adopted by reference in the applicable chapters of this code, may be prosecuted for an infraction. Written citations for infractions may be issued by police officers or nonsafety employees designated by this code. Unless otherwise set forth in this code, fines shall be assessed in the amounts specified as follows:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance within twelve (12) months, or five hundred dollars (\$500.00) for building and safety code violations;
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within twelve (12) months, or one thousand dollars (\$1,000.00) for building and safety code violations.

C. Civil Action: The city attorney, or an attorney hired for such purposes by and at the request of the city council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this code, or state codes specifically adopted by reference in the applicable chapters of this code, as provided by law, and the city shall be entitled to its attorney fees and costs.

D. Administrative Citation: Upon a finding by the city official vested with the authority to enforce the various provisions of this code, or state codes specifically adopted by reference in the applicable chapters of this code, that a violation exists, he or she may issue an administrative citation under the provisions of this article. (Ord. 1720 § 3, 5-1-2007)

1.18.050 SERVICE PROCEDURES

An administrative citation on a form approved by the city manager shall be issued to the responsible person by an enforcement officer for violations of this code, or state codes specifically adopted by reference in the applicable chapters of this code, in the following manner:



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A. Personal Service: In any case where an administrative citation is issued:

1. The enforcement officer shall attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the administrative citation.
2. If the responsible person served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.

B. Service of Citation By Mail: If the enforcement officer is unable to locate the responsible person, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid, with a requested return receipt. Simultaneously, the citation may be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.

C. Service by Citation By Posting Notice: If the enforcement officer does not succeed in serving the responsible person personally, or by certified mail or regular mail, the enforcement officer shall post the administrative citation on any real property within the city where the city has knowledge that the responsible person has a legal interest, and such posting shall be deemed effective service.

1.18.060 **CONTENTS OF NOTICE**

Each administrative citation shall contain the following information:

A. Date, approximate time, and address or definite description of the location where the violation(s) was observed;

B. The code sections or conditions violated and a description of the violation(s);

C. An order to the responsible person to correct the violations within the time specified, and an explanation of the consequences of failure to correct the violation(s);

D. The amount of the fine for the violation(s);

E. An explanation of how the fine shall be paid and the time period by which it shall be paid;

F. Identification of rights of appeal, including the time within which the citation may be contested and the place to obtain a request for hearing form to contest the administrative citation; and

G. The name and signature of the enforcement officer.

H. If possible, the signature of the responsible person.



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1.18.070 **SATISFACTION OF ADMINISTRATIVE CITATION**

Upon receipt of a citation, the responsible person shall:

A. Pay the fine to the city within fifteen (15) working days from the issuance date of the administrative citation. All fines assessed shall be payable to the city of Lindsay. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the city; and

B. Remedy the violation(s). If the responsible person fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this article or by ordinance.

1.18.080 **APPEAL OF ADMINISTRATIVE CITATION**

Any recipient of an administrative citation may contest that there was a violation of this code, or state codes specifically adopted by reference in the applicable chapters of this code, or that he or she is the responsible person by completing a request for hearing form and returning it to the city within fifteen (15) working days from the issuance date of the administrative citation, together with an advanced deposit (full amount) of the fine. Any administrative citation fine, which has been deposited, shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not the responsible person for the violation(s) or that there was no violation(s) as charged in the administrative citation.

1.18.090 **HEARING OFFICER**

The city manager shall designate the hearing officer for the administrative citation hearing. The hearing officer shall not be a current Lindsay city employee. The employment, performance evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

1.18.100 **HEARING PROCEDURE**

A. Request for Hearing: No hearing to contest an administrative citation before a hearing officer shall be held unless and until a request for hearing form has been completed and submitted, and the fine has been deposited in advance.

B. Setting Date for Hearing: A hearing before the hearing officer shall be set for a date that is not less than fifteen (15) working days and not more than sixty (60) working days from the date that the request for hearing is filed in accordance with the provisions of this article. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) working days prior to the date of the hearing.



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C. Considering Evidence: The enforcement hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s) of this code, or state codes specifically adopted by reference in the applicable chapters of this code, on the date(s) specified in the administrative citation.

D. Testimony and Witnesses Allowed: The responsible person contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.

E. Failure to Appear: The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

F. Evidence of Facts: The administrative citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

G. Submission of Additional Written Report To Hearing Officer: If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served by mail on the person requesting the hearing at least five (5) working days prior to the date of the hearing. At least ten (10) working days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted. Formal rules of evidence shall not apply.

H. Continuation of Hearing: The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.

1.18.110 HEARING OFFICER'S DECISION

A. Issuance of Written Decision: After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within ten (10) working days of the close of the hearing to uphold or deny the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final, subject to judicial review.

B. Citation Upheld: If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.

C. Citation Dismissal: If the hearing officer determines that the administrative citation should be dismissed, the city shall refund the amount of the deposit within ten (10) working days of the date of its receipt of the decision.



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D. Notice of Decision To Recipient: The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision in the manner prescribed above.

1.18.120 **FAILURE TO PAY FINES**

The failure of any person to pay the civil fines assessed by an administrative citation within the time specified on the citation may result in the matter being referred to the city of Lindsay - finance, to file a claim with the small claims court. Alternatively, the city may pursue any other legal remedy to collect the civil fines. The city may also recover all of its collection costs, including its attorney fees.

1.18.130 **RIGHT TO JUDICIAL REVIEW**

Any person aggrieved by a decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Tulare County superior court in accordance with the time lines and provisions as set forth in California Government Code section 53069.4.

1.18.140 **NOTICES**

A. The administration citation and all notices to be given by this article shall be served on the responsible person in accordance with the provisions of this article.

B. Failure to receive any notice specified in this article does not affect the validity of proceedings conducted hereunder.

1.18.150 **SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this article. The city council hereby declares that it would have passed this article and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

The proposed amendment would allow the Code Enforcement Officer to provide a localized method to hold parties responsible when they fail or refuse to comply with the provisions of this code and state codes specifically adopted by reference in the applicable chapters of this code. By providing a localized method of compliance, the City will not have to rely on or burden County or State resources. In addition, many issues will be resolved using less City time and resources thus creating faster results in the City Council's goals and objectives identified.



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ALTERNATIVES

- Approve with modification
- Direct staff to provide additional information
- Deny request

BENEFIT TO OR IMPACT ON CITY RESOURCES

Benefits include increased ability to protect the public health, safety and welfare of the citizens of the city.

Potential impacts to the City include increased staff time and resources to identify small code violations throughout the community.

ENVIRONMENTAL REVIEW

The proposed addition is exempt from the California Environmental Quality Act (CEQA) as it is not a project pursuant to Section 15378 of the CEQA Guidelines.

POLICY ISSUES

None

PUBLIC OUTREACH

Public outreach includes posting in the local newspaper

ATTACHMENTS

- Ordinance No. 563

ORDINANCE NO. 563
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDSAY
ADDITION CHAPTER 1.18 SECTIONS 1.18.010 THROUGH 1.18.150 OF THE LINDSAY
MUNICIPAL CODE PERTAINING TO ADMINISTRATIVE CITATIONS.

THE CITY COUNCIL OF THE CITY OF LINDSAY DOES ORDAIN AS FOLLOWS:

ARTICLE 1: Chapter 1.18 of the Lindsay Municipal Code shall be amended to read as follows:

1.18.010 Legislative findings and statement of purpose.

A. Alternative Method of Enforcement: The city council hereby finds that there is a need for an alternative method of enforcement for minor violations of this code, or state codes specifically adopted by reference in the applicable chapters of this code. The city council further finds that an appropriate method of enforcement for minor violations is and administrative citation program as authorized by Government Code section 53069.4.

B. Procedures Additional to Other Remedies: The procedures established in this article shall be in addition to criminal, civil or any other legal remedy established by law, which may be pursued to address violations of this code and state codes specifically adopted by reference in the applicable chapters of this code.

C. City Goals: The city council hereby finds and determines that enforcement of this code, other ordinance adopted by the city, conditions on entitlements and terms and condition of city agreements are matters of local concern and serve important public purposes. Consistent with its powers as a charter city, the city of Lindsay adopts this administrative citation program provision in order to achieve the following goals, and:

1. To protect the public health, safety and welfare of the citizens of the city;
2. To gain compliance with this code and state codes specifically adopted by reference in the applicable chapters of this code in a timely and efficient manner;
3. To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of this code and state codes specifically adopted by reference in the applicable chapters of this codes;
4. To minimize the expense and delay where the sole remedy is to pursue responsible parties in the civil or criminal justice system;
5. To provide for an administrative process to appeal the imposition of administrative citations and fines.

D. Purpose: The purpose of this article is to enable the city, acting as a charter city pursuant to article XI, sections 5 and 7 of the state constitution, to impose and collect civil administrative fines in conjunction with the enforcement of provisions of this code or state codes specifically adopted by reference in the applicable chapters of this code. Notwithstanding the provisions herein, the city has, and shall continue to employ, the philosophy of voluntary compliance when seeking compliance with this code and state codes specifically adopted by reference in the applicable chapters of this code.

E. Voluntary Compliance: Prior to the implementation of the enforcement policies and penalties stated herein, voluntary compliance approaches, when practical, should first be used in order to educate

city property owners and businesses concerning the requirements of this code, or state codes specifically adopted by reference in the applicable chapters of this code, and the corrective action necessary to correct a violation of this code and state codes specifically adopted by reference in the applicable chapters of this code.

F. Use of Provisions Discretionary: Use of this article shall be at the sole discretion of the city.

1.18.020 Definitions

The following terms shall mean:

ENFORCEMENT OFFICER: Any officer or employee with the authority to enforce this code, and state codes specifically adopted by reference in the applicable chapters of this code.

HEARING OFFICER: Any person appointed by the city manager to preside over the administrative hearings provided for in this article.

RESPONSIBLE PERSON: Any individual or entity who is the registered owner or occupant of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen (18) years, who causes or maintains a violation of this code or state codes specifically adopted by reference in the applicable chapters of this code.

1.18.030 Authority

A. Issuance of Citation: Any person violating any provision of this code, or state codes specifically adopted by reference in the applicable chapters of this code, may be issued an administrative citation by an enforcement officer as provided in this chapter. A violation of this code includes, but is not limited to: all violations of this code, and applicable state codes, ordinances or regulations adopted by the city council; or the failure to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved under the provisions of this code.

B. Each Day a Separate Offense: Each and every day a violation exists may constitute a separate and distinct offense.

C. Civil Fine: A civil fine shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the city of Lindsay.

1.18.040 Violations, Penalties and Enforcement

The city council of the city of Lindsay intends to secure compliance with the provisions of this code, and state codes specifically adopted by reference in the applicable chapters of this code. To the extent that such compliance may be achieved by less drastic methods of enforcement, the following alternate, separate and distinct methods may be utilized. Each method set forth herein is intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violations exist constitutes a separate offense.

Notwithstanding any other provisions of this code, and state codes specifically adopted by reference in the applicable chapters of this code, each violation of the provisions of this code may be enforced alternatively as follows:

A. Misdemeanor: Unless otherwise specified in this code, any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, and state codes specifically adopted by reference in the applicable chapters of this code, may be prosecuted for a misdemeanor. Written citations for misdemeanors may be issued by police officers or by nonsafety employees designated by this code. Any person convicted of a misdemeanor under the provisions of this code, and state codes specifically adopted by reference in the applicable chapters of this code, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

B. Infraction: In the alternative, with the concurrence of the city attorney, any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, and state codes specifically adopted by reference in the applicable chapters of this code, may be prosecuted for an infraction. Written citations for infractions may be issued by police officers or nonsafety employees designated by this code. Unless otherwise set forth in this code, fines shall be assessed in the amounts specified as follows:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance within twelve (12) months, or five hundred dollars (\$500.00) for building and safety code violations;
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within twelve (12) months, or one thousand dollars (\$1,000.00) for building and safety code violations.

C. Civil Action: The city attorney, or an attorney hired for such purposes by and at the request of the city council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this code, or state codes specifically adopted by reference in the applicable chapters of this code, as provided by law, and the city shall be entitled to its attorney fees and costs.

D. Administrative Citation: Upon a finding by the city official vested with the authority to enforce the various provisions of this code, or state codes specifically adopted by reference in the applicable chapters of this code, that a violation exists, he or she may issue an administrative citation under the provisions of this article.

1.18.050 SERVICE PROCEDURES

An administrative citation on a form approved by the city manager shall be issued to the responsible person by an enforcement officer for violations of this code, or state codes specifically adopted by reference in the applicable chapters of this code, in the following manner:

A. Personal Service: In any case where an administrative citation is issued:

1. The enforcement officer shall attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the administrative citation.
2. If the responsible person served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.

B. Service of Citation by Mail: If the enforcement officer is unable to locate the responsible person, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid, with a requested return receipt. Simultaneously, the citation may be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.

C. Service By Citation By Posting Notice: If the enforcement officer does not succeed in serving the responsible person personally, or by certified mail or regular mail, the enforcement officer shall post the administrative citation on any real property within the city where the city has knowledge that the responsible person has a legal interest, and such posting shall be deemed effective service.

1.18.060 CONTENTS OF NOTICE

Each administrative citation shall contain the following information:

- A. Date, approximate time, and address or definite description of the location where the violation(s) was observed;
- B. The code sections or conditions violated and a description of the violation(s);
- C. An order to the responsible person to correct the violations within the time specified, and an explanation of the consequences of failure to correct the violation(s);
- D. The amount of the fine for the violation(s);
- E. An explanation of how the fine shall be paid and the time period by which it shall be paid;

F. Identification of rights of appeal, including the time within which the citation may be contested and the place to obtain a request for hearing form to contest the administrative citation; and

G. The name and signature of the enforcement officer.

H. If possible, the signature of the responsible person.

1.18.070 SATISFACTION OF ADMINISTRATIVE CITATION

Upon receipt of a citation, the responsible person shall:

A. Pay the fine to the city within fifteen (15) working days from the issuance date of the administrative citation. All fines assessed shall be payable to the city of Lindsay. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the city; and

B. Remedy the violation(s). If the responsible person fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this article or by ordinance.

1.18.080 APPEAL OF ADMINISTRATIVE CITATION

Any recipient of an administrative citation may contest that there was a violation of this code, or state codes specifically adopted by reference in the applicable chapters of this code, or that he or she is the responsible person by completing a request for hearing form and returning it to the city within fifteen (15) working days from the issuance date of the administrative citation, together with an advanced deposit (full amount) of the fine. Any administrative citation fine, which has been deposited, shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not the responsible person for the violation(s) or that there was no violation(s) as charged in the administrative citation.

1.18.090 HEARING OFFICER

The city manager shall designate the hearing officer for the administrative citation hearing. The hearing officer shall not be a current Lindsay city employee. The employment, performance evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

1.18.100 HEARING PROCEDURE

A. Request for Hearing: No hearing to contest an administrative citation before a hearing officer shall be held unless and until a request for hearing form has been completed and submitted, and the fine has been deposited in advance.

B. Setting Date for Hearing: A hearing before the hearing officer shall be set for a date that is not less than fifteen (15) working days and not more than sixty (60) working days from the date that the request for hearing is filed in accordance with the provisions of this article. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) working days prior to the date of the hearing.

C. Considering Evidence: The enforcement hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s) of this code, or state codes specifically adopted by reference in the applicable chapters of this code, on the date(s) specified in the administrative citation.

D. Testimony And Witnesses Allowed: The responsible person contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.

E. Failure to Appear: The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

F. Evidence of Facts: The administrative citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

G. Submission Of Additional Written Report To Hearing Officer: If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served by mail on the person requesting the hearing at least five (5) working days prior to the date of the hearing. At least ten (10) working days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted. Formal rules of evidence shall not apply.

H. Continuation of Hearing: The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.

1.18.110 HEARING OFFICER'S DECISION

A. Issuance of Written Decision: After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within ten (10) working days of the close of the hearing to uphold or deny the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final, subject to judicial review.

B. Citation Upheld: If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.

C. Citation Dismissal: If the hearing officer determines that the administrative citation should be dismissed, the city shall refund the amount of the deposit within ten (10) working days of the date of its receipt of the decision.

D. Notice of Decision to Recipient: The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision in the manner prescribed above.

1.18.120 FAILURE TO PAY FINES

The failure of any person to pay the civil fines assessed by an administrative citation within the time specified on the citation may result in the matter being referred to the city of Lindsay - finance, to file a claim with the small claims court. Alternatively, the city may pursue any other legal remedy to collect the civil fines. The city may also recover all of its collection costs, including its attorney fees.

1.18.130 RIGHT TO JUDICIAL REVIEW

Any person aggrieved by a decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Tulare County superior court in accordance with the time lines and provisions as set forth in California Government Code section 53069.4.

1.18.140 NOTICES

A. The administration citation and all notices to be given by this article shall be served on the responsible person in accordance with the provisions of this article.

B. Failure to receive any notice specified in this article does not affect the validity of proceedings conducted hereunder.

1.18.150 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this article. The city council hereby declares that it would have passed this article and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

ARTICLE 2. The City Council declares that this ordinance is exempt from the California Environmental Quality Act (CEQA) because it is not a project pursuant to Section 15378 of the CEQA Guidelines.

ARTICLE 3: This ordinance shall be in full force and effect on or after the 30th day after its adoption by the City Council. Within 15 days after its adoption by the City Council, this Ordinance shall be published in full text or in summary in a newspaper of general circulation in the City of Lindsay.

The foregoing ordinance, read by title only with waiving of the reading in full was introduced at a regularly scheduled meeting on the 27th day of February 2018.

PASSED, APPROVED, and ADOPTED at a regular meeting of the City Council held on the 13th day of March 2018.

CITY COUNCIL OF THE CITY OF LINDSAY

Pamela Kimball, Mayor

ATTEST:

Maria Knutson, Deputy City Clerk



DATE : March 8, 2018
TO : Honorable Mayor Kimball and City Council Members
FROM : Chris Hughes, Director of Public Safety
RE : Fireworks Ordinance Chapter 8.22 Section 8.22.140

During the first reading of the proposed Fireworks Ordinance council expressed the desire to expand the regulations and penalties for the sale and use of illegal fireworks within the City of Lindsay. After having done some research to best meet your request an ordinance has been located which staff believes meets your goals. This is a request to abandon the second reading of Fireworks Ordinance Chapter 8.22 Section 8.22.140 to allow staff to present a new and improved ordinance as soon as possible.



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 11
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

AGENDA ITEM

TITLE	Ordinance No. 565
ACTION	Add section to the Municipal Code Chapter 8.05 Smoking Regulations, Section 8.05.170 Smoking and Tobacco use in City Parks to prohibit smoking within city parks.
PURPOSE	2 nd Reading, Discretionary Action.
COUNCIL OBJECTIVE(S)	Live in a safe, clean, comfortable and healthy environment. Increase our keen sense of identity in a physically connected and involved community. Nurture attractive residential neighborhoods and business districts.

RECOMMENDATION

Staff Recommends Approval with Council Requested Modifications.

BACKGROUND | ANALYSIS

Ordinance No. 565 is a request by City Staff to add section 8.05.170 to the Lindsay Municipal Code to prohibit smoking within city parks. The proposed amendment reads as follows:

Proposed Amendment

1. Proposed deleted text is shown in ~~strikethrough~~ text.
 2. Proposed new text is shown in *underline italic* text.
 3. Commentary (not part of the proposed ordinance, but provided for explanation and background/rationale purposes) is shown in ***highlighted italic*** text.
-



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 11
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

Chapter 8.05

SMOKING REGULATIONS

Sections:

8.05.010	PURPOSE AND FINDINGS
8.05.020	AUTHORITY
8.05.030	DEFINITIONS
8.05.040	SMOKING PROHIBITIONS, PUBLIC PLACES
8.05.050	STORES
8.05.060	BANKS
8.05.070	HOTELS/MOTELS
8.05.080	TERMINALS
8.05.090	BUSES AND TAXIS
8.05.100	THEATERS
8.05.110	RECREATIONAL FACILITIES
8.05.120	RECREATION HALLS
8.05.130	RESTURANTS
8.05.140	PLACES OF EXHIBITION
8.05.150	HOSPITALS
8.05.160	SCHOOLS
<u>8.05.170</u>	<u>SMOKING AND TOBACCO USE IN CITY PARKS</u>
8.05.180	DAY CARE FACILITIES
8.05.190	SMOKING PROHIBITIONS, WORK-PLACE
8.05.200	PLACES WHERE SMOKING IS PERMISSIBLE
8.05.210	POSTING REQUIREMENTS
8.05.220	RETALIATION PROHIBITED
8.05.230	VIOLATION OF SMOKING OR POSTING



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 11
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

8.05.240 ENFORCEMENT

8.05.250 OTHER APPLICABLE LAWS

This table is provided to show the location of the proposed addition in context with the rest of the chapter.

8.05.170 SMOKING AND TOBACCO USE IN CITY PARKS

A. PROHIBITED ACTS

The possession of a lighted or burning tobacco, or tobacco-related product, or any other smokeless, tobacco, vaping device, e-cigarette, or any other lighted weed or plant, including, but not limited to, cigars, cigarettes and pipes; or the use of chewing tobacco or tobacco-related products; or the disposed of any lighted or unlighted tobacco or tobacco-related product in any place other than a designated waste disposal container in any city park within the City of Lindsay is prohibited. "No Smoking" and "No Tobacco Use" signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying a city park that smoking and tobacco use is prohibited within the area. A violation of this section is an infraction.

B. Definition of City Park.

For purposes of this chapter, "city park" means any outdoor area owned or operated by the city and open to the general public for recreational purposes, regardless of any fee or age requirement, including, but not limited to: Parklands, including portions of parks, such as picnic areas, playgrounds or sports fields; walking paths; gardens; hiking and nature trails; bike paths; horseback riding trails; athletic fields; skateboard parks; and amusement parks. City Park shall also include a parking lot or any other area designated or primarily used for parking vehicles of persons accessing the city park. This definition shall not apply to any public street located outside of a city park that is designed and intended for regular motor vehicle travel or designated bicycle lanes located within such street.

The proposed amendment would allow city parks to be Smoke-free and protect the public from the harms of secondhand smoke as well as prevent people, particularly children and youth, from beginning to use tobacco. Language regarding vaping and e-cigarette products was added at the request of Council.

ALTERNATIVES

- Approve with modification
- Direct staff to provide additional information
- Deny request



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 11
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

BENEFIT TO OR IMPACT ON CITY RESOURCES

Benefits include tobacco-free parks that provide families and children healthy environments in which they are not exposed to the health harms of secondhand smoke. No cigarette butts or other tobacco litter.

Potential impacts to City include increased staff time to enforce this new code.

ENVIRONMENTAL REVIEW

The proposed addition is exempt from the California Environmental Quality Act (CEQA) as it is not a project pursuant to Section 15378 of the CEQA Guidelines.

POLICY ISSUES

None

PUBLIC OUTREACH

Public outreach includes posting in the local newspaper.

ATTACHMENTS

- Ordinance No. 565

ORDINANCE NO. 565
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDSAY
AMENDING SECTION 8.05.170 OF THE LINDSAY MUNICIPAL CODE
PERTAINING TO SMOKING REGULATIONS.

THE CITY COUNCIL OF THE CITY OF LINDSAY DOES ORDAIN AS FOLLOWS:

ARTICLE 1: Section 8.05.170 of the Lindsay Municipal Code shall be amended to read as follows:

Chapter 8.05

SMOKING REGULATIONS

Sections:

8.05.010	PURPOSE AND FINDINGS
8.05.020	AUTHORITY
8.05.030	DEFINITIONS
8.05.040	SMOKING PROHIBITIONS, PUBLIC PLACES
8.05.050	STORES
8.05.060	BANKS
8.05.070	HOTELS/MOTELS
8.05.080	TERMINALS
8.05.090	BUSES AND TAXIS
8.05.100	THEATERS
8.05.110	RECREATIONAL FACILITIES
8.05.120	RECREATION HALLS
8.05.130	RESTURANTS
8.05.140	PLACES OF EXHIBITION
8.05.150	HOSPITALS
8.05.160	SCHOOLS
8.05.170	SMOKING AND TOBACCO USE IN CITY PARKS
8.05.180	DAY CARE FACILITIES
8.05.190	SMOKING PROHIBITIONS, WORK-PLACE
8.05.200	PLACES WHERE SMOKING IS PERMISSIBLE
8.05.210	POSTING REQUIREMENTS
8.05.220	RETALIATION PROHIBITED
8.05.230	VIOLATION OF SMOKING OR POSTING
8.05.240	ENFORCEMENT
8.05.250	OTHER APPLICABLE LAWS
8.05.170	Smoking and Tobacco use in city parks.

A. PROHIBITED ACTS

The possession of a lighted or burning tobacco, or tobacco-related product, or any other smokeless, tobacco, vaping device, e-cigarette, or any other lighted weed or plant, including, but not limited to, cigars, cigarettes and pipes; or the use of chewing tobacco or tobacco-related products; or the disposed of any lighted or unlighted tobacco or tobacco-related product in any place other than a designated waste disposal container in any city park within the City of Lindsay is prohibited. "No Smoking" and "No Tobacco Use" signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying a city park that smoking and tobacco use is prohibited within the area. A violation of this section is an infraction.

B. DEFINITION OF CITY PARK.

For purposes of this chapter, "city park" means any outdoor area owned or operated by the city and open to the general public for recreational purposes, regardless of any fee or age requirement, including, but not limited to: Parklands, including portions of parks, such as picnic areas, playgrounds or sports fields; walking paths; gardens; hiking and nature trails; bike paths; horseback riding trails; athletic fields; skateboard parks; and amusement parks. City Park shall also include a parking lot or any other area designated or primarily used for parking vehicles of persons accessing the city park. This definition shall not apply to any public street located outside of a city park that is designed and intended for regular motor vehicle travel or designated bicycle lanes located within such street.

ARTICLE 2. The City Council declares that this ordinance is exempt from the California Environmental Quality Act (CEQA) because it is not a project pursuant to Section 15378 of the CEQA Guidelines.

ARTICLE 3: This ordinance shall be in full force and effect on or after the 30th day after its adoption by the City Council. Within 15 days after its adoption by the City Council, this Ordinance shall be published in full text or in summary in a newspaper of general circulation in the City of Lindsay.

The foregoing ordinance, read by title only with waiving of the reading in full was introduced at a regularly scheduled meeting on the 27th day of February 2018.

PASSED, APPROVED, and ADOPTED at a regular meeting of the City Council held on the 13th day of March 2018.

ATTEST:

CITY COUNCIL OF THE CITY OF LINDSAY

Maria Knutson, Deputy City Clerk

Pamela Kimball, Mayor



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 12
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

AGENDA ITEM

TITLE	Ordinance No. 566
ACTION	Add section to the Municipal Code Title 9 Public Peace, Morals and Welfare, Chapter VII. Weapons, Section 9.96 Discharge to prohibit discharge of any weapon within the City of Lindsay.
PURPOSE	2 nd Reading, Discretionary Action
COUNCIL OBJECTIVE(S)	Live in a safe, clean, comfortable and healthy environment. Increase our keen sense of identity in a physically connected and involved community. Nurture attractive residential neighborhoods and business districts.

RECOMMENDATION

Staff Recommends Approval

BACKGROUND | ANALYSIS

Ordinance No. 566 is a request by City Staff to amend Title 9 Public Peace, Morals and Welfare, Chapter VII Weapons, Section 9.96 Discharge of the Lindsay Municipal Code to increase prohibit discharge of any weapon within the City of Lindsay. The proposed amendment reads as follows:

Proposed Amendment

1. Proposed deleted text is shown in ~~strikethrough~~ text.
 2. Proposed new text is shown in *underline italic* text.
 3. Commentary (not part of the proposed ordinance, but provided for explanation and background/rationale purposes) is shown in ***highlighted italic*** text.
-



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 12
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

- I. OFFENSES BY OR AGAINST PUBLIC OFFICERS OR GOVERNMENT
- II. OFFENSES AGAINST THE PERSON

9.12 Astrology, Fortunetelling, Clairvoyance and Similar Practices

9.16 Disturbing the Peace

III. OFFENSES AGAINST PUBLIC DECENCY

9.28 Intoxicating Liquor

9.32 Gambling

9.36 Spitting or Throwing Fruit Peels on Sidewalks

IV. OFFENSES AGAINST PUBLIC PEACE

9.48 Obstructing Passage and Throwing Objects

9.50 Nuisances

V. OFFENSES AGAINST PROPERTY

9.60 Pollution

VI. CONSUMER PROTECTION

9.72 Solicitation Without Invitation

VII. MINORS

9.84 Curfew

VIII. WEAPONS

9.96 Discharging

This table is provided to show the location of the proposed addition in context with the rest of the chapter.



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 12
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

VII. Weapons

9.96 Discharging

A. Definition:

"weapons": The word "weapons" as used In this article, means any rifle, pistol, shotgun, air gun or pellet gun which projects a metallic object by means of air, gas or a spring, slingshot, crossbow, bow and arrow and any other instrument used for discharging projectiles capable of doing bodily harm.

B. Purpose:

The purpose of this article is to prohibit the discharge of weapons in and into those areas of the city in which the City Council has determined that the public health and safety required that there be no discharge of weapons. Those areas for which the City Council has made such a determination are described in section 9.96 es seq. of this Article.

C. Exceptions:

The provisions of this Article shall not apply to any public officer in the lawful discharge of his duties, nor to any person necessarily acting in the lawful defense of person or property, nor to the premises of any shooting gallery, practice range, skeet field, archery range or other similar place conducted at a fixed location and with respect to which adequate safeguards have been provided to protect person and property from injury.

D. City of Lindsay:

It shall be unlawful to discharge any weapon within or into the city limits of the City of Lindsay.

The proposed amendment would allow the city to be protecting the public health and safety required that there be no discharge of weapons.

ALTERNATIVES

- Approve with modification
- Direct staff to provide additional information
- Deny request

BENEFIT TO OR IMPACT ON CITY RESOURCES

Benefits include providing a safe environment for individuals without the possibility of firearms being present, discharged or used for any purpose.

Potential impacts for the City of Lindsay would be increased staff resources to enforce this new code.



STAFF REPORT

AGENCY: CITY OF LINDSAY, CALIFORNIA
DATE: MARCH 13, 2018
AGENDA #: 12
STAFF: MARSHA BUELNA, CODE ENFORCEMENT OFFICER,
559-331-0550, mbuelna@lindsay.ca.us

ENVIRONMENTAL REVIEW

The proposed addition is exempt from the California Environmental Quality Act (CEQA) as it is not a project pursuant to Section 15378 of the CEQA Guidelines.

POLICY ISSUES

None

PUBLIC OUTREACH

Public outreach includes posting in the local newspaper.

ATTACHMENTS

- Ordinance No. 566

ORDINANCE NO. 566
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDSAY
ADDING TITLE 9, CHAPTER VII, SECTION 9.96, OF THE LINDSAY MUNICIPAL CODE
PERTAINING TO WEAPONS.

THE CITY COUNCIL OF THE CITY OF LINDSAY DOES ORDAIN AS FOLLOWS:

ARTICLE 1: Chapter VII Section 9.96 of the Lindsay Municipal Code shall be amended to read as follows:

- Title 9
PUBLIC PEACE, MORALS AND WELFARE
Chapters:
- I. OFFENSES BY OR AGAINST PUBLIC OFFICERS OR GOVERNMENT
 - II. OFFENSES AGAINST THE PERSON
 - 9.12 Astrology, Fortunetelling, Clairvoyance and Similar Practices
 - 9.16 Disturbing the Peace
 - III. OFFENSES AGAINST PUBLIC DECENCY
 - 9.28 Intoxicating Liquor
 - 9.32 Gambling
 - 9.36 Spitting or Throwing Fruit Peels on Sidewalks
 - IV. OFFENSES AGAINST PUBLIC PEACE
 - 9.48 Obstructing Passage and Throwing Objects
 - 9.50 Nuisances
 - V. OFFENSES AGAINST PROPERTY
 - 9.60 Pollution
 - VI. CONSUMER PROTECTION
 - 9.72 Solicitation Without Invitation
 - VII. MINORS
 - 9.84 Curfew
 - VIII. WEAPONS
 - 9.96 Discharging

VII. Weapons

9.96 Discharging

A. Definition:

“weapons”: The word “weapons” as used in this article, means any rifle, pistol, shotgun, air gun or pellet gun which projects a metallic object by means of air, gas or a spring, slingshot, crossbow, bow and arrow and any other instrument used for discharging projectiles capable of doing bodily harm.

B. Purpose:

The purpose of this article is to prohibit the discharge of weapons in and into those areas of the city in which the City Council has determined that the public health and safety required that there be no discharge of weapons. Those areas for which the City Council has made such a determination are described in section 9.96 et seq. of this Article.

C. Exceptions:

The provisions of this Article shall not apply to any public officer in the lawful discharge of his duties, nor to any person necessarily acting in the lawful defense of person or property, nor to the premises of any shooting gallery, practice range, skeet field, archery range or other similar place conducted at a fixed location and with respect to which adequate safeguards have been provided to protect person and property from injury.

D. City of Lindsay:

It shall be unlawful to discharge any weapon within or into the city limits of the City of Lindsay.

ARTICLE 2. The City Council declares that this ordinance is exempt from the California Environmental Quality Act (CEQA) because it is not a project pursuant to Section 15378 of the CEQA Guidelines.

ARTICLE 3: This ordinance shall be in full force and effect on or after the 30th day after its adoption by the City Council. Within 15 days after its adoption by the City Council, this Ordinance shall be published in full text or in summary in a newspaper of general circulation in the City of Lindsay.

The foregoing ordinance, read by title only with waiving of the reading in full was introduced at a regularly scheduled meeting on the 27th day of February 2018.

PASSED, APPROVED, and ADOPTED at a regular meeting of the City Council held on the 13th day of March 2018.

CITY COUNCIL OF THE CITY OF LINDSAY

Pamela Kimball, Mayor

ATTEST:

Maria Knutson, Deputy City Clerk