

PROJECT REPORT

TO: Planning Commission

AGENDA DATE: November 9, 2022

FROM: PLANNING & DEVELOPMENT SERVICES

AGENDA TIME: 9:00am/No. 4

CONTINUED FROM SEPTEMBER 14, 2022

PROJECT TYPE: Appeal #22-0002 for Notice of Violation #01643 SUPERVISOR DIST #5

LOCATION: 2405 Holt Road APNS: 045-040-037-000

Holtville CA, 92250

PARCEL SIZE: 40 acres

GENERAL PLAN (existing) Agriculture GENERAL PLAN (proposed) N/A

ZONE (existing) A-2 (General Agriculture) ZONE (proposed) N/A

GENERAL PLAN FINDINGS

☐ CONSISTENT

☒ INCONSISTENT

☐ MAY BE/FINDINGS

PLANNING COMMISSION DECISION:

HEARING DATE: September 14, 2022

☐ APPROVED

☐ DENIED

☐ OTHER

PLANNING DIRECTORS DECISION:

HEARING DATE: N/A

☐ APPROVED

☐ DENIED

☐ OTHER

ENVIROMENTAL EVALUATION COMMITTEE DECISION:

HEARING DATE: N/A

INITIAL STUDY: N/A

☐ NEGATIVE DECLARATION ☐ MITIGATED NEGATIVE DECLARATION ☐ EIR

DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS	<input checked="" type="checkbox"/>	NONE
AG. COMMISSIONER	<input checked="" type="checkbox"/>	NONE
APCD	<input checked="" type="checkbox"/>	NONE
DEH/EHS	<input checked="" type="checkbox"/>	NONE
FIRE/OES	<input checked="" type="checkbox"/>	NONE
OTHER: <u>N/A</u>		

<input type="checkbox"/>	ATTACHED
<input type="checkbox"/>	ATTACHED
<input type="checkbox"/>	ATTACHED
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<input type="checkbox"/>	ATTACHED

STAFF RECOMMENDATION:

IT IS RECOMMENDED THAT YOU CONDUCT A PUBLIC HEARING, THAT YOU HEAR ALL THE OPPONENTS AND PROPONENTS OF THE APPEAL. STAFF WOULD THEN RECOMMEND THAT YOU TAKE THE FOLLOWING ACTIONS:

1. DENY THE APPEAL UPHOLDING THE PLANNING DIRECTOR'S DETERMINATION AND REQUIRE THE PROPERTY OWNER TO APPLY FOR A BUILDING PERMIT FOR THE CARGO CONTAINERS AND A CONDITIONAL USE PERMIT FOR A FARM IMPLEMENT SALES OPERATION; OR
2. APPROVE THE APPEAL, FINDING THAT THE INSTALLATION OF CARGO CONTAINERS AND THE OPERATION OF AN AUTO PARTS REPAIR SHOP (KC AUTO SERVICE, LLC) CAN CONTINUE WITHOUT THE REQUIRED BUILDING PERMITS AND CONDITIONAL USE PERMIT.

Planning & Development Services Department
801 MAIN STREET, EL CENTRO, CA, 92243 (442) 265-1736
(Jim Minnick, Director)

S:\AllUsers\APN\045\040\037\APP22-0002\PC\APP22-0002 PROJECT REPORT.docx

STAFF REPORT
Planning Commission
CONTINUED FROM SEPTEMBER 14, 2022
Appeal #22-0002 for Notice of Violation #01643

Appellant: **KC Auto Service, LLC**
 2405 Holt Road
 Holtville CA, 92250

Location:

The subject area of the appeal is located at 2405 Holt Road, Holtville CA, 92250, also known as Assessor's Parcel Number (APN) 045-040-037-000; legally described as the SOUTHEAST ¼ OF THE WEST 160 ACRES OF TRACT 86, T15S, R15E, S.B.B.M. The violation area that is the subject of the appeal, lies specifically on the southeast corner of APN 045-040-037-000 on an un-cultivated portion of land with an area measuring around +/- 1.38 acres.

Case Summary:

On June 30, 2022, a site inspection was performed at 2405 Holt Road, Holtville CA, due to a complaint received by the Imperial County Planning and Development Services Department. It was found that 16 cargo containers had been installed with utilities including four (4) mini-split air conditioning units. These containers were being used as an auto parts store with no building permits or Conditional Use Permit having been applied for.

On July 14, 2022, a notice of violation was sent to the property owner on record notifying them of the violations on the property, the requirement to cease and desist the operation of the business, and the removal all of the unpermitted containers, trailer and port-a-potties on the property.

On July 21, 2022, the attorney for KC Auto Service contact the Planning Department to find out what if anything could be done regarding the notice of violation. He was informed of their option to appeal and was provided the web links to the Imperial County Land Use ordinance.

On July 25, 2022, an appeal letter was received from KC Auto Service.

On July 26, 2022, a meeting was at the appellant's request, between Winston Crouse for KC Auto Service, their attorney Jim Graves, the Planning Director, Jim Minnick and Planning staff to discuss the notice of violation. During the meeting the appellant stated that it was not an auto parts repair shop as stated in the violation but was closer to a farm implements store that was members only and not open to the public. Their attorney pointed out that farm implement sales in the A-2 zone is allowed. Management stated that farm implement sales would require a Conditional Use Permit (CUP). The appellant was told that they can continue with the appeal that had been received on the July 25, if they wished, but that the use would require a CUP. Additionally they were reminded and

it was stressed that they needed to cease and desist with the operation of the business especially because of the lack of building and electrical permits for the cargo containers.

August 02, 2022, staff reached out to Mr. Crouse and Mr. Graves to determine if they wanted to continue with the appeal and Mr. Graves responded in the affirmative.

August 18, 2022, a building inspector drove by and observed that the business is still in operation.

Existing Parcels Size:

Total parcel size = 40 acres

Area of violation = +/- 1.38 acres

Violations:

The property was found to be in violation for the following reason(s):

1. Operation of an auto parts repair shop/business in an A-2 Zone.
2. Installation of cargo containers with electrical without a permit

Code Sections:

The violations cited above violate the following code sections:

- Imperial County Land Use Ordinance Title 9 Division 5 Chapter 8
- 2019 California Building Code Section 114.1

For Compliance:

The Property can be brought into compliance by taking the following action(s):

1. Immediately cease and desist the operation of the auto parts repair business.
2. Obtain the required demolition permit for the removal of all the cargo containers, trailer and port-a-potties;
3. Removing all the cargo containers, trailer and port-a-potties from the property;
4. Removing all signs of the auto parts repair business from the property; and
5. Calling the Imperial County Planning & Development Services Department for all required inspections so that the permit can be finalized (signed off) to clear the Red Tag and the violation file can be closed out.

Staff Recommendation:

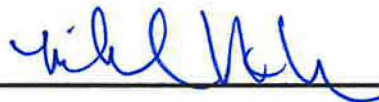
Staff recommends that the Planning Commission hold a public hearing, hear all the proponents and opponents of the appeal, and then take the following actions:

1. Deny the appeal upholding the Planning Director's determination and require the property owner to apply for a Building Permit for the cargo containers and a Conditional Use Permit for a Farm Implement Sales operation.; OR
2. Approve the appeal, finding that the installation of cargo containers and the operation of an auto parts repair shop (KC Auto Service, LLC) can continue without the required Building Permits and Conditional Use Permit.

PREPARED BY: Derek Newland, Planner II
Planning & Development Services



REVIEWED BY: Michael Abraham, AICP, Assistant Director of
Planning & Development Services



APPROVED BY: Jim Minnick, Director of
Planning & Development Services

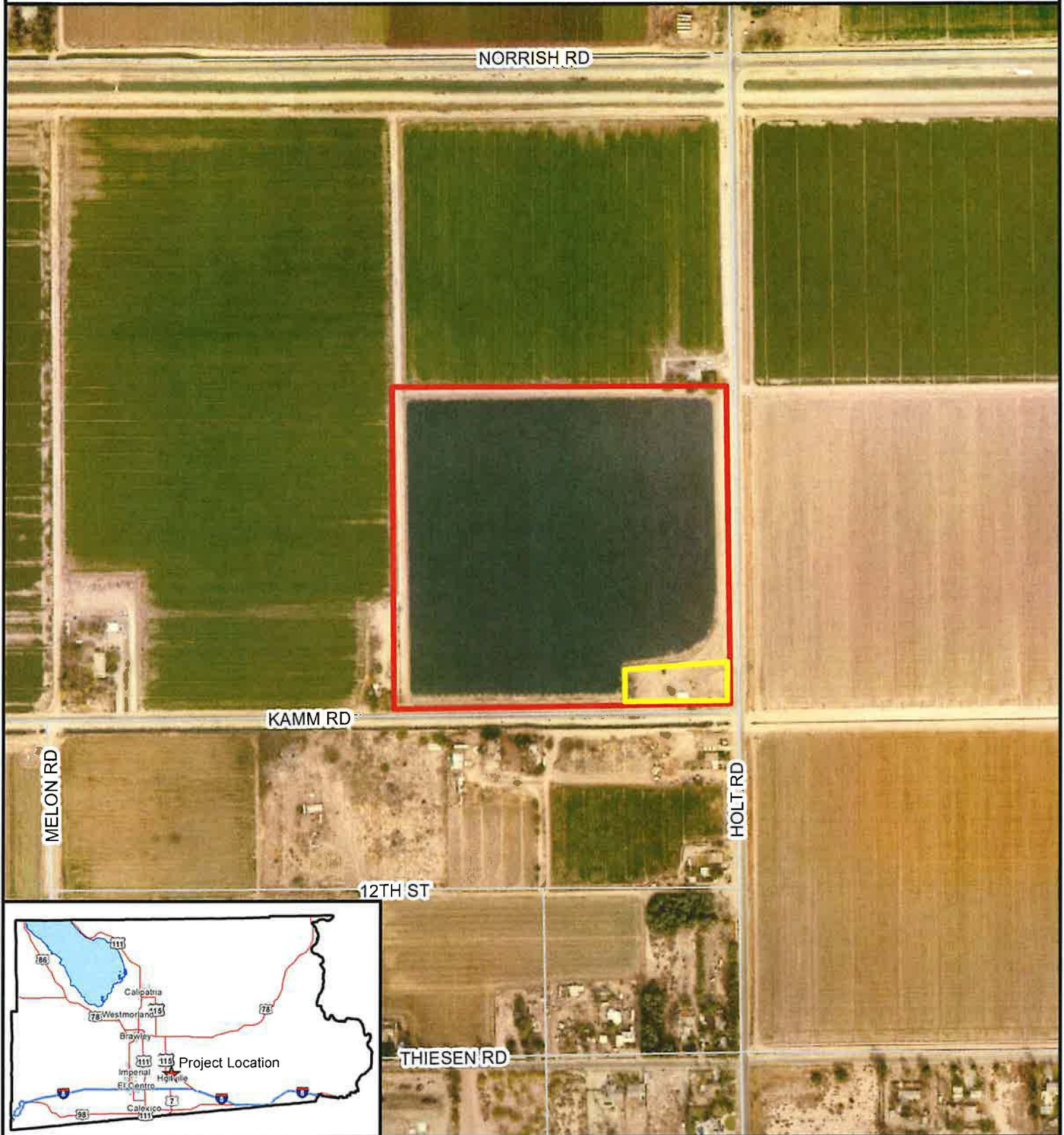


ATTACHMENTS:




- A. Vicinity Map, Zoning Map, and Assessor's Map
- B. Appeal Letter
- C. Notice of Violation
- D. Report and Photographs
- E. Comment Letters
- F. Code Sections

ATTACHMENT “A”
Vicinity Map, Zoning Map,
and Assessor’s Map

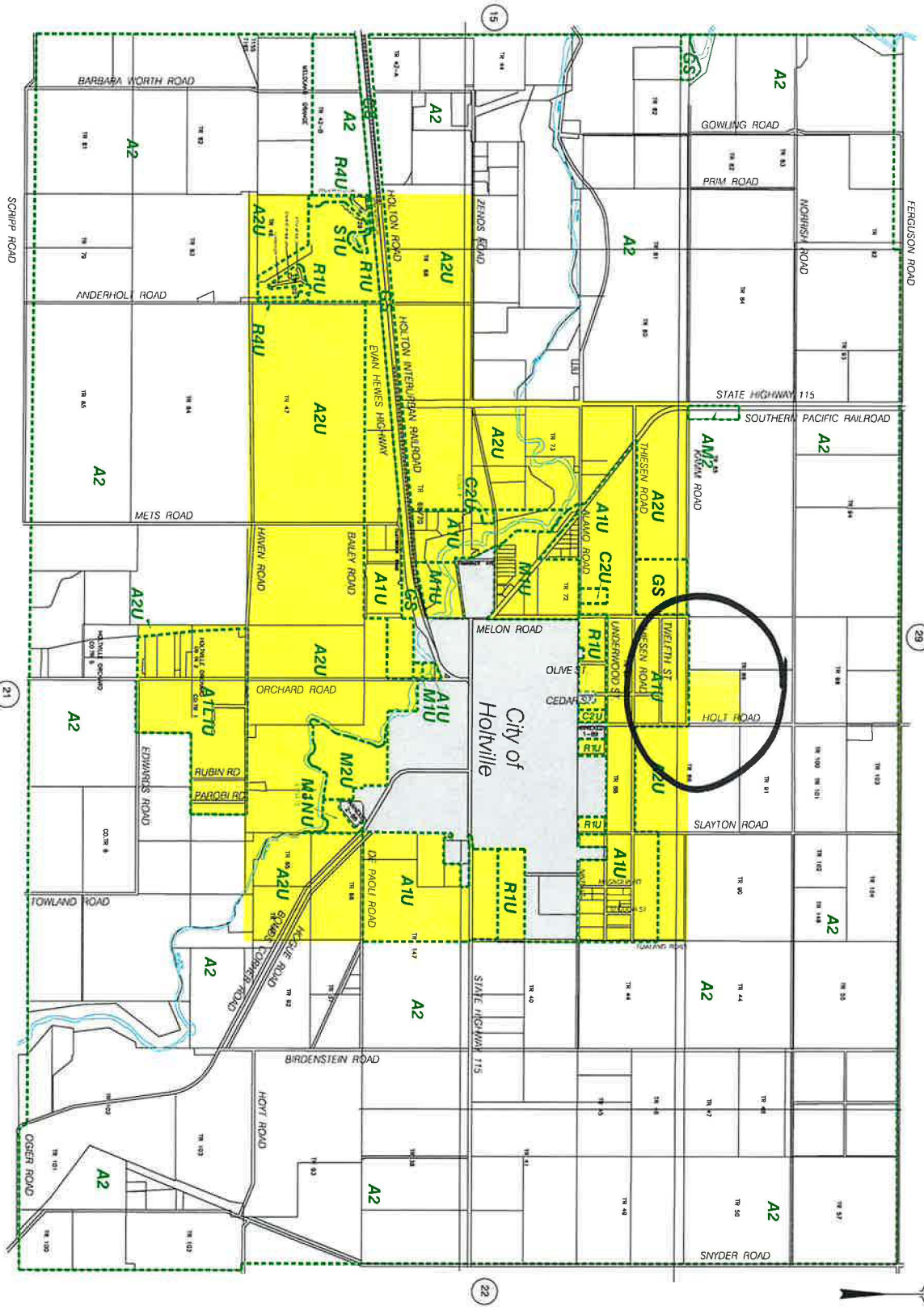
PROJECT LOCATION MAP



KC AUTO SERVICE, LLC
APPEAL #22-0002
045-040-037-000

-  Violation Area
-  Assessor's Parcel
-  Centerline





NOTE: Efforts have been made to insure zoning accuracy; however, this map may be revised at any time. Therefore this map is generally accurate, for zoning information only! Neither the County of Imperial nor the Planning/Building Department are responsible for erroneous information or improper use of this map. Adopted by M. O. # 19 (b) on Mar. 31, 1998 effective July 1, 1998.

Director _____

HOLTVILLE AREA

Title 9 Division 25 Section 92504.00

Revision Dates:	
September 5, 2006 - Map Update	

MAP
4

Revised: 9/5/06
 Note: This map is a preliminary map and is not to be used for any other purpose. It is the property of the Imperial County Planning/Building Department and is loaned to you for your information only. It is not to be reproduced or used in any way without the written consent of the Imperial County Planning/Building Department.

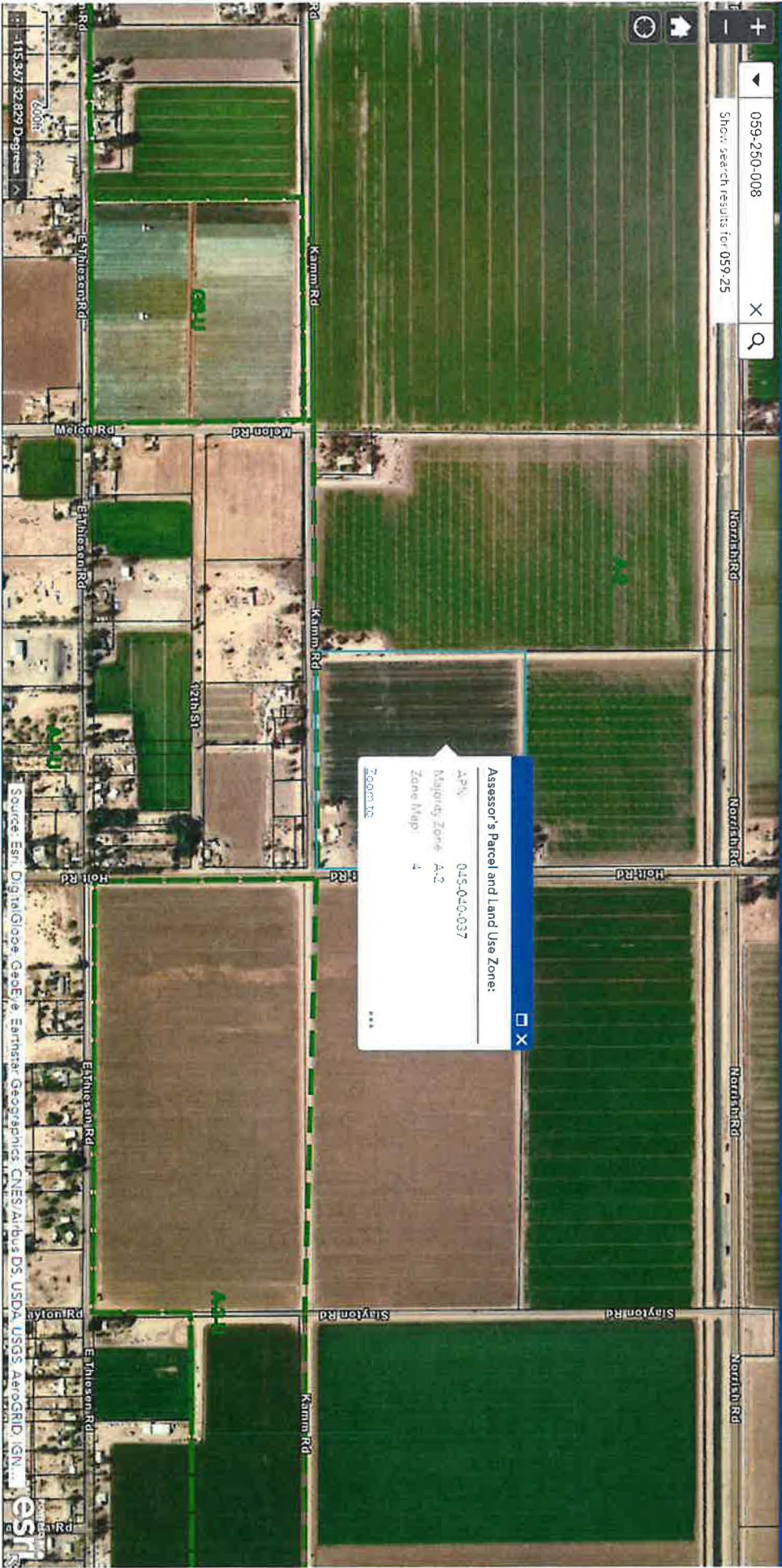
+

059-250-008

X

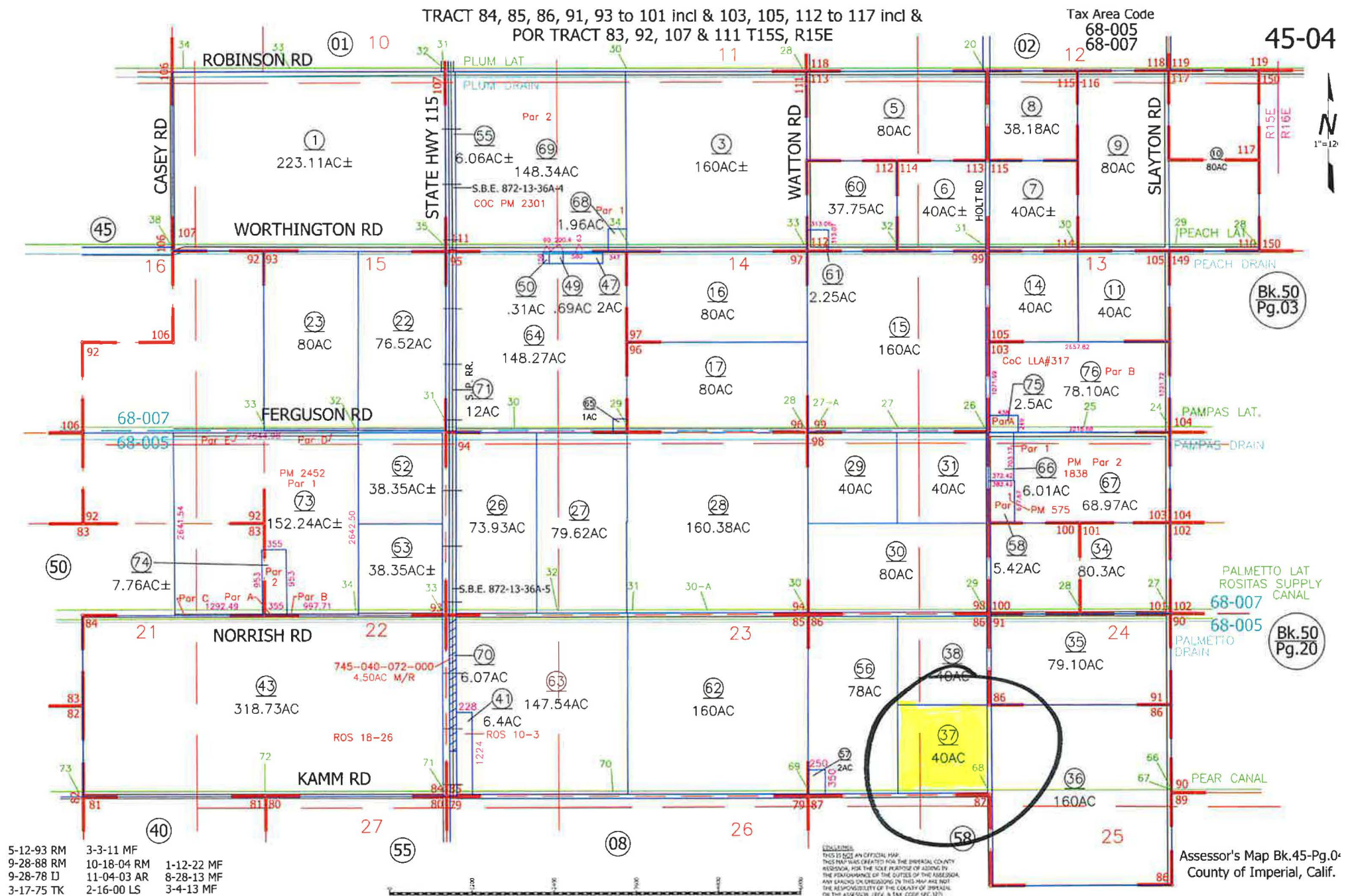
🔍

Show search results for 059-25



Assessor's Parcel and Land Use Zone:

APN	045-040-037
Majority Zone	A-2
Zone Map	4
Zoom In	***



ATTACHMENT “B”
Appeal Letter

KC Auto Service, LLC
David Gill
Winston Crouse
PO BOX 1005
King City, CA 93930
831-682-5264

After receiving and reviewing the complaint which has been filed with the Imperial County Planning & Development Services Department (ICPDS) stating the following:

- Operation of an auto parts repair shop
- Installation of cargo containers with electrical without a permit

KC Auto Service, LLC is appealing this complaint as the purpose of this company is in no way shape or form to be an auto parts repair shop. This project is strictly to provide parts to agricultural equipment needed during harvest to intercompany. This project is not open to the general public. In the early phases of this project the county was contacted to discuss any permits, licenses, etc. which would be needed or relevant to the area and project and no permit for containers was ever mentioned. In order to fulfil permit requirements and county expectations KC Auto Service, LLC will take the action needed and necessary to arrive at an acceptable solution.

RECEIVED

JUL 25 2022

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

ATTACHMENT “C”
Notice of Violation



Jim Minnick
DIRECTOR

Imperial County Planning & Development Services Planning / Building

July 14, 2022

NOTICE AND ORDER TO ABATE VIOLATION

CERTIFIED MAIL 7016 2140 0000 2120 1739

(copy posted on site)

Nature Fresh Farms LLC
P O Box 5258
Imperial CA 92251

SUBJECT: 2405 HOLT ROAD, HOLTVILLE, CA (APN 045-040-037-000)

Dear Property Owner(s):

A complaint was filed with the Imperial County Planning & Development Services Department (ICPDS). The complaint alleges the following:

- Operation of a auto parts repair shop
- Installation of cargo containers with electrical without a permit

On July 1, 2022, a site inspection was performed on your property located at the above subject address legally known as SOUTH EAST ¼ OF WEST 160 ACRES OF TRACT 86 TOWNSHIP 15 SOUTH RANGE 15 EAST 40-ACRES, also identified as Assessor's Parcel Number (APN) 045-040-037-000. Said property is currently zoned A-2 (General Agricultural) per Zone Map 4). The operation of an auto parts repair shop/business in an A-2 Zone is strictly prohibited and a direct violation of the Imperial County Land Use Ordinance Title 9 Division 5 Chapter 8. Additional information can be found on our website at the below links:

<https://www.icpds.com/assets/5-Zoning-Areas-Established-.pdf>

The installation of cargo containers with electrical without a permit is a direct violation of the 2019 California Building Code and the Imperial County Land Use Ordinance Title 9 Division 10 Chapter 2.

2019 California Building Code Section 114.1 which states "...it shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of the provisions of this code..."

<https://www.icpds.com/assets/planning/ordinances/TITLE-9-Div-10.pdf>

It is hereby ordered that the property be brought into compliance within thirty (30) days of receipt of this Notice and Order, by taking the following actions:

1. **IMMEDIATELY CEASE AND DESIST THE OPERATION** of the auto parts repair business at this location. The A-2 Zone does not allow for this type of business operation.

2. Obtaining the required demolition permit for the removal of all the cargo containers, trailer and port-a-potties;
3. Removing all the cargo containers, trailer and port-a-potties from the property;
4. Removing all signs of the auto parts repair business from the property; and
5. Calling the Imperial County Planning & Development Services Department for all required inspections so that the permit can be finalized (signed off) to clear the Red Tag and the violation file can be closed out.

NOTE: As an incentive to clear the violation and bring your property into compliance, you will be entitled to a full refund of the paid demolition fees (\$360.00) provided the demolition permit has been field verified and finalized by a County Building Inspector within six (6) months of the date of issuance. (ICLUO Title 9 Division 10 Chapter 2 Section 91002.07) (Refundable amount is \$345.00)

Failure to comply with this Notice and Order within thirty (30) days of receipt, will result in further action being taken by the Imperial County Planning & Development Services Department which may include the issuance of a Red Tag, a citation which will require you to appear in Municipal Court and be subject to court imposed penalties and/or having the power ordered to be terminated.

Additionally, failure to comply with this notice may result in the assessment of civil penalties of up to \$1,000.00 a day pursuant to provision of the Imperial County Codified Ordinance Title 9, Division 13, Chapter 4, and Section 91304.01. The individual committing the violation and the property owner(s) are jointly liable for any costs fines, penalties or assessments.

You have the right to appeal this Notice of Violation/Non-Compliance or to object to these charges by filing a Request for Hearing with the Planning Commission within ten (10) days of the service of notice. Said appeal must be in the form of writing and must be submitted to the Building Official at Imperial County Planning & Development Services Department, 801 Main Street, El Centro, CA 92243) within ten (10) days of receipt of this notice. Said appeal must be accompanied by a filing fee of \$650.00 payable to the County of Imperial. The appeal letter should include the property owner's name, address, contact phone number and a brief description of the issues being disputed. The issues shall be restricted to the items cited in the Notice of Violation/Non-Compliance.

Notice is hereby given that at the conclusion of this case, and without voluntary compliance, you will receive a bill of administrative costs associated with the processing of such violation(s), pursuant to Section 91309.03 of Imperial County Codified Ordinances.

If you should have any questions regarding this matter, please feel free to contact our office at (442) 265-1736 and discuss further with a County Planner.

Sincerely,

Jim Minnick, Director
IC Planning & Development Services Department

By: 
Linda Hunt, Permit Specialist

Enclosures (Assessor's Plat Map; Assessor's Inquiry; report and photographs dated July 5, 2022)

(Si usted requiere esta información en español, por favor de llamar al (442) 265-1736)

cc: KC Auto Service (Carquest) (Winston Crouse) (Email: winston@westernharvesting.com)
Nick Wells, City of Holtville City Manager (email: NWells@Holtville.ca.gov)
Raylene Tappier, City of Holtville (email: rtapiceria@holtville.ca.gov)
Jim Minnick, ICPDS Director
Michael Abraham, AICP, ICPDS Assistant Director
Sergio Rubio, ICPDS Building Division Manager
File 10.113, APN 045-040-037-000 (NOV01643)
(copy posted on site)

lh/S:/apn/045/040/037/NOV01643 NOTICE & ORDER TO ABATE

2019 California Building Code Section 105.1 states "...any owner...who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure...to install, enlarge, alter...or replace any electrical, gas, mechanical, or plumbing system...shall first make application to the building official and obtain the required permit..."

2019 California Building Code Section 114.1 states "...it shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of the provisions of this code..."

2019 California Building Code Section 114.3 states "...if the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceedings at law or equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereof..."

Imperial County Codified Land Use Ordinance Title 9 Division 1 Chapter 1 Section 90101.07 states, "...any person, firm or corporation using any facility, building, structure, acreage, lot or parcel of land in violation of any provision of this Title is guilty of a misdemeanor and shall be prosecuted to fullest extent of the law as provided under Division 13..."

Imperial County Codified Land Use Ordinance Title 9 Division 10 Chapter 2 Section 91002.32, states "...any person, firm or corporation violating any provision of this Division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed \$1,000.00 or by imprisonment in County Jail for not to exceed six months, or by both fine and imprisonment..."

Imperial County Codified Land Use Ordinance Title 9 Division 13 Chapter 2 Section 91302.01 states, "any condition caused, maintained or permitted to exist in violation of any of the provisions of the County Land Use Ordinances shall be and the same is hereby declared unlawful and a public nuisance that may be abated consistent with the procedures provided for in this ordinance, or in any other manner provided by law"

ATTACHMENT “D”
Report and Photographs

REPORT



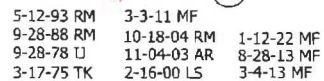
ON THURSDAY JUNE 30, 2022 I WAS DIRECTED TO CONDUCT A COMPLAINT INVESTIGATION AT 2405 HOLT AVE. IN HOLTVILLE CA. I ARRIVED TO SITE AT APPROXIMATELY 10:20 AM. I SPOKE WITH ROSS THE SALES PERSON AT THE COUNTER. I EXPLAINED TO HIM THE PURPOSE OF THE INVESTIGATION AND HE ALLOWED ME TO DO MY INVESTIGATION. AT TIME OF INVESTIGATION THESE WERE MY FINDINGS.

1. 16 CONTAINERS ON SITE BEING USED FOR AN AUTO PARTS STORE.
2. THE CONTAINERS HAVE POWER TO THEM.
3. THERE IS A TRAILER WITH TWO PORTA POTTIES.
4. THE CONTAINERS ARE LAYING ON CONCRETE PADS.
5. THERE ARE FOUR MINI-SPLITS INSTALLED ON TOP OF THE CONTAINERS.
6. THE NAME OF THE BUSINESS IS KC AUTO SERVICE. (CARQUEST)
7. THEY ARE SALEING CAR PARKS, OIL, SMALL ENGINE EQUIPMENT, AND TOOLS.
8. THE OLD METAL BUILDING TO THE WEST OF THE BUSINESS IS UNOCCUPIED.

SEE PHOTOS ATTACHED

PURPOSE COMPLAINT INVESTIGATION	
REQUESTED BY: OFFICE DATE: 06-30-22	
PROJECT (SITUS/ADDRESS) 2405 HOLT AVE	ASSESSORS PARCEL NO. 045-040-037
LOCATION HOLTVILLE CA	CONTACT (if any)
NAME	PROJECT TYPE
PHONE NO.	STAFF NAME JUAN PEDROZA
	DATE 07-05-22

PLANNING & DEVELOPMENT SERVICES DEPT. (IMPERIAL COUNTY) (760) 482-4236

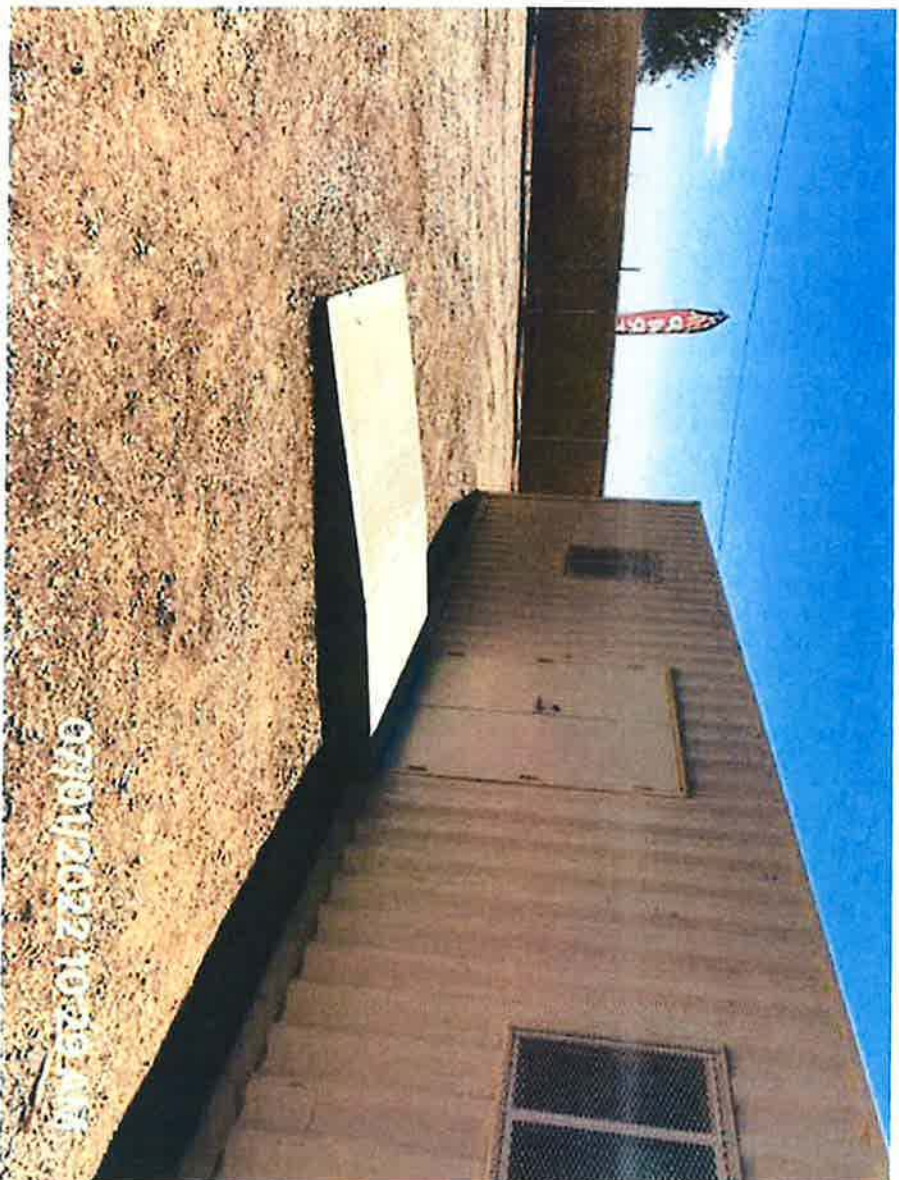




045-040-037 JP FRONT OF BUSINESS



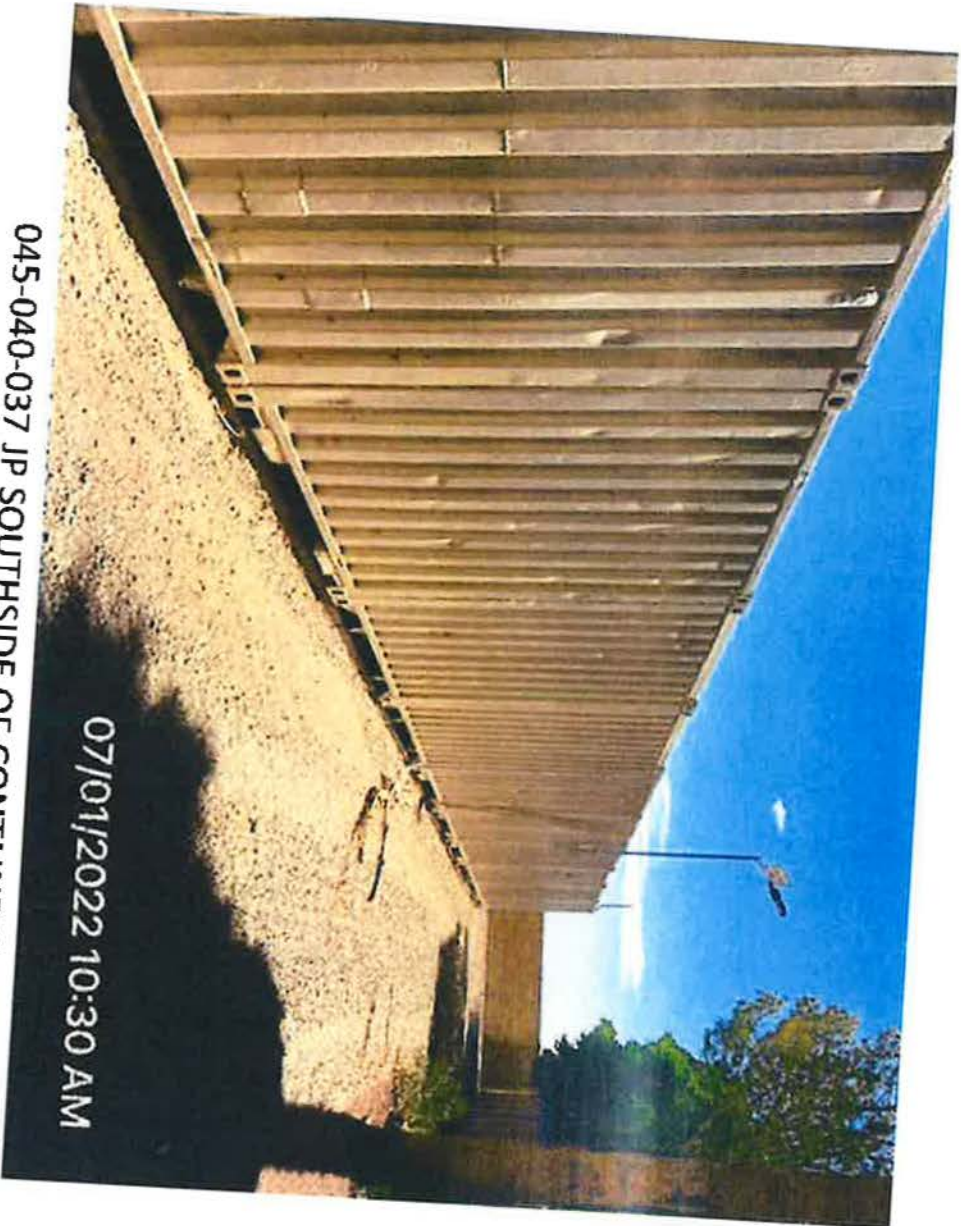
045-040-037 JP CONTAINERS ON SITE



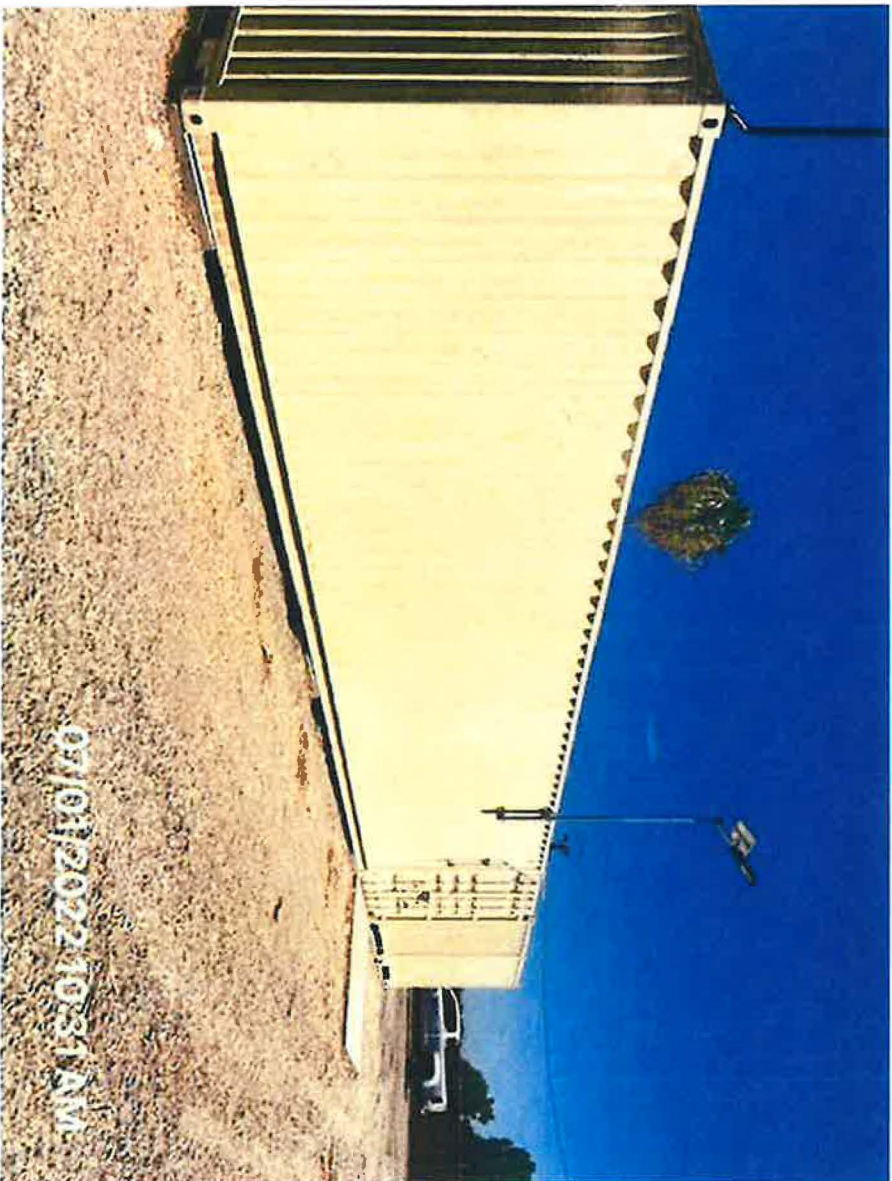
045-040-037 JP 1 FRONT OF BUSINESS



045-040-037 JP WESTSIDE OF CONTAINERS



045-040-037 JP SOUTHSIDE OF CONTAINERS



045-040-037 JP EASTSIDE OF CONTAINERS



045-040-037 JP CONTAINERS ON TOP OF CONCRETE PADS



045-040-037 JP FOUR MINI-SPLITS INSTALLED

AUTO BA

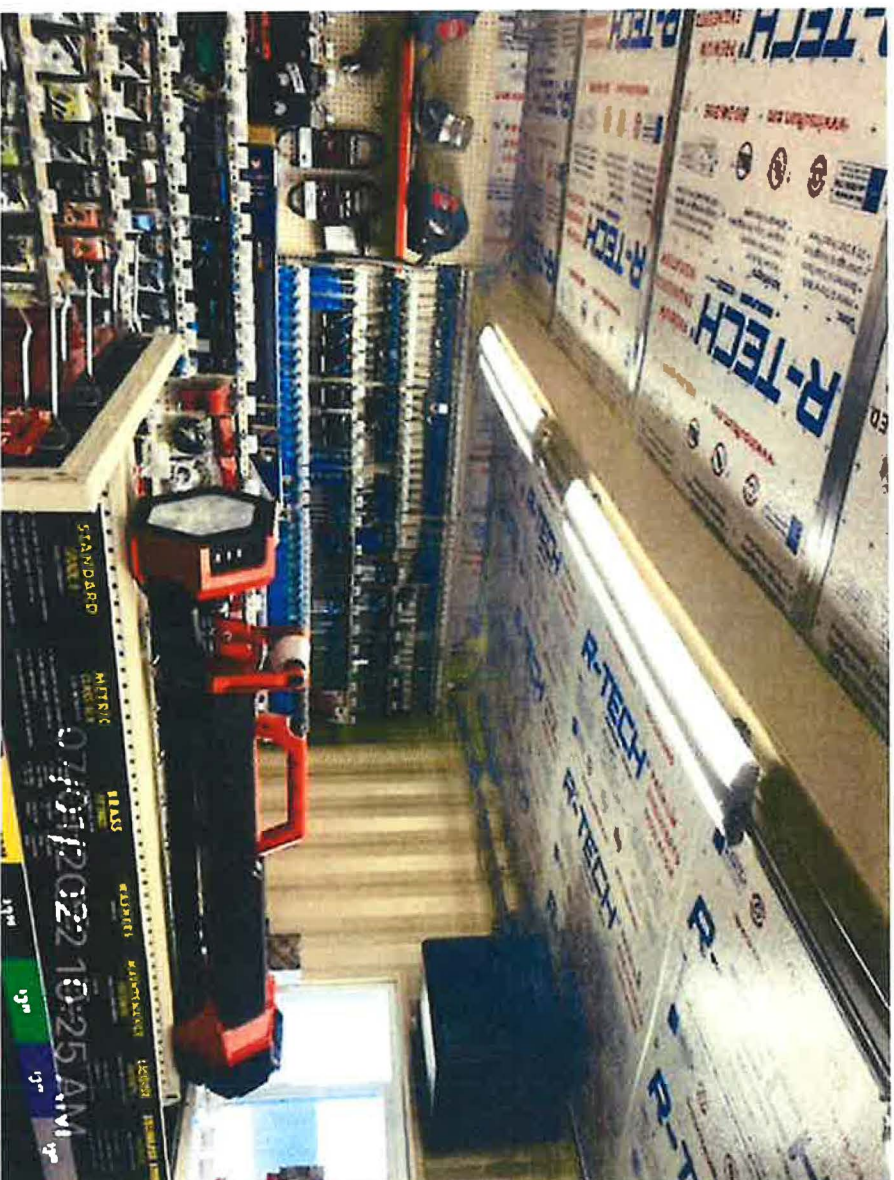
City of Holtville

RECEIVED OF KE Auto Service *Occupation License* NO. 10431
P.O. Box 1005 HOLTVILLE CALIF. 11-1-21
ADDRESS King City CA 93930
THE SUM OF One Hundred DOLLARS, BEING OCCUPATIONAL LICENSE FOR
Auto Parts & Supplies BUSINESS FROM 11-1-21 TO 10-30-22
AT THE RATE OF n/a PER QUARTER

City of Holtville
121 West 5th Street
Holtville, CA 92350
(760) 356-2912

THIS MUST BE POSTED IN A CONSPICUOUS PLACE

045-040-037 JP CITY BUSINESS LICENSE



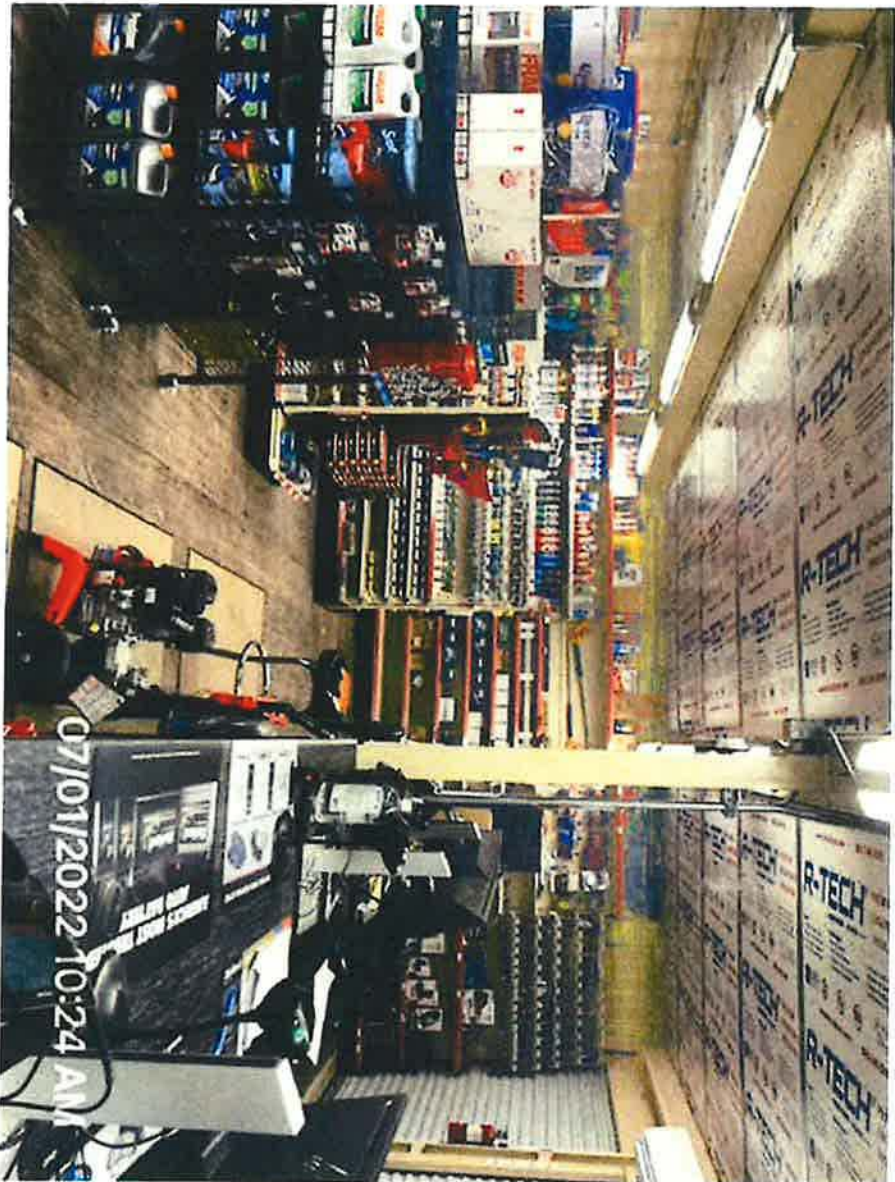
045-040-037 JP INSIDE OF BUSINESS



045-040-037 JP INSIDE OF BUSINESS (2)



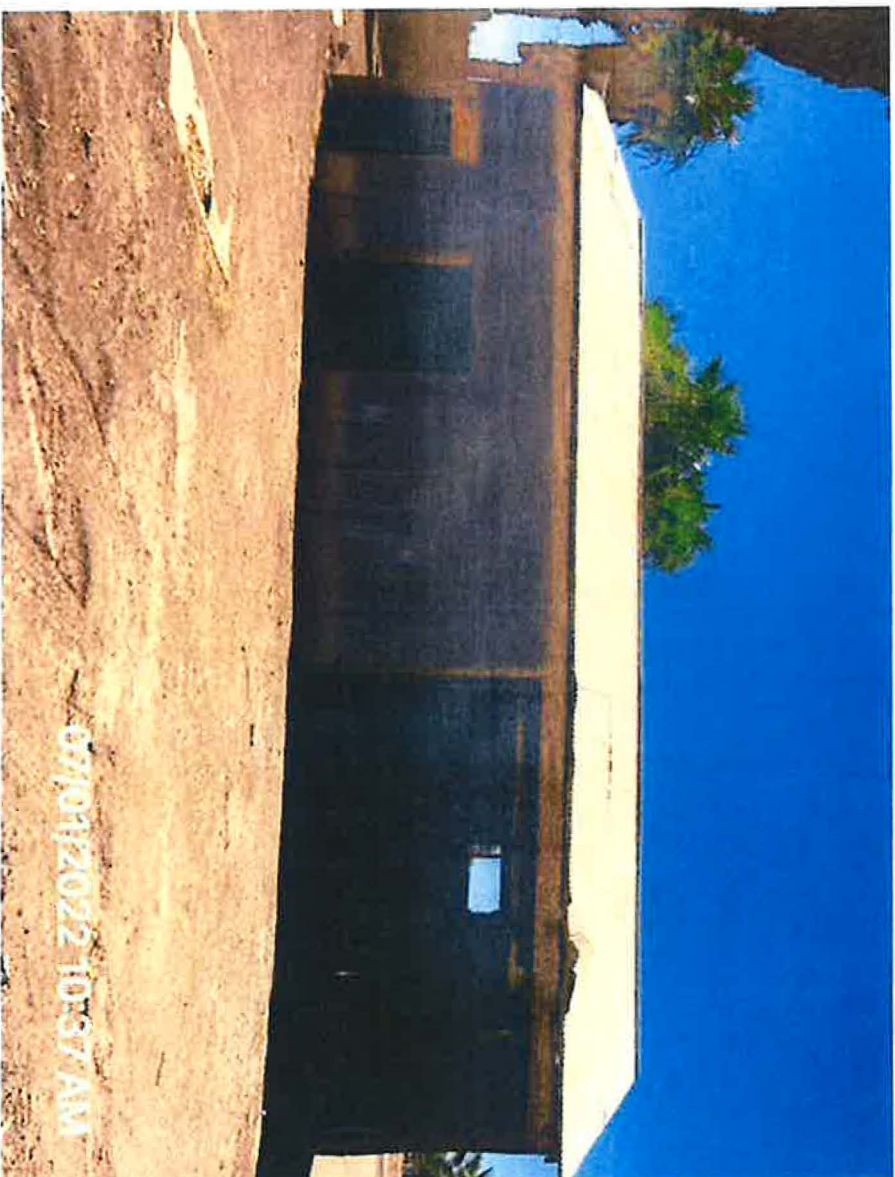
045-040-037 JP INSIDE OF BUSINESS (3)



045-040-037 JP INSIDE OF BUSINESS (4)



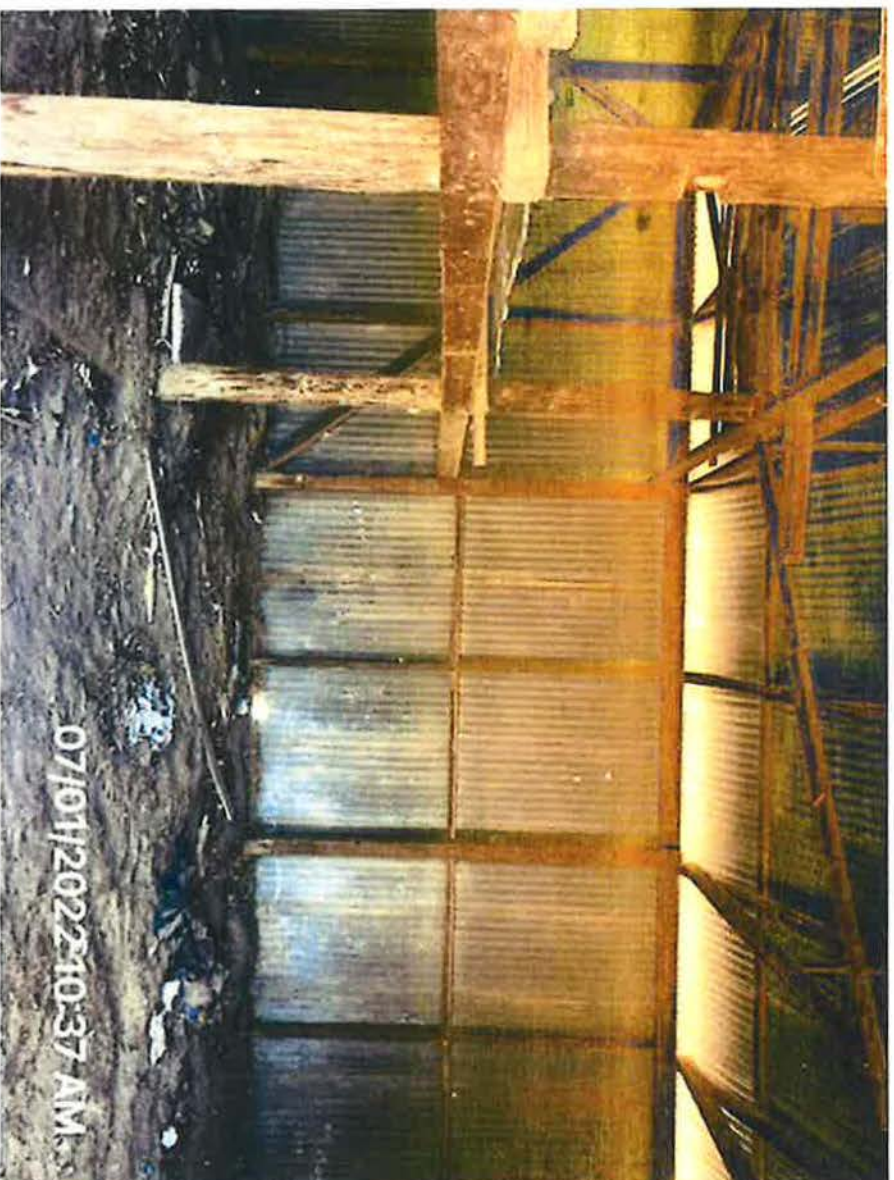
045-040-037 JP PORTA POTTIES ON TRAILER



045-040-037 JP METAL SHOP TO THE WEST UNOCCUPIED



045-040-037 JP METAL SHOP TO THE WEST UNOCCUPIED (3)



045-040-037 JP METAL SHOP TO THE WEST UNOCCUPIED (2)

ATTACHMENT “E”

Comment Letters



Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

August 23, 2022
REQUEST FOR REVIEW
AND COMMENTS

The attached project and materials are being sent to you for your review and as an early notification that the following project is being requested and being processed by the County's Planning & Development Services Department. Please review the proposed project based on your agency/department area of interest, expertise, and/or jurisdiction.

To: County Agencies	State Agencies/Other	Cities/Other
<input checked="" type="checkbox"/> County Executive Office – Rosa Lopez/Miguel Figueroa	<input checked="" type="checkbox"/> CALTRANS, District #11-Roger Sanchez/Kimberly Dodson/Maurice Eaton	<input checked="" type="checkbox"/> City of Holtville-Jorge Galvan
<input checked="" type="checkbox"/> County Counsel – Eric Havenss	<input checked="" type="checkbox"/> APCD – Belen Leon	<input checked="" type="checkbox"/> City of Holtville- Alex Chavez
<input checked="" type="checkbox"/> APCD – Monica Soucier	<input checked="" type="checkbox"/> APCD – Matt Dessert	<input checked="" type="checkbox"/> Public Works –John Gay
<input checked="" type="checkbox"/> EHS – Jeff Lamoure	<input checked="" type="checkbox"/> EHS – Mario Salinas	<input checked="" type="checkbox"/> Ag. Commissioner –Jolene Dessert
<input checked="" type="checkbox"/> Public Works – Guillermo Mendoza	<input checked="" type="checkbox"/> EHS – Alphonso Andrade	<input checked="" type="checkbox"/> Ag. Commissioner –Sandra Mendivil
<input checked="" type="checkbox"/> Imperial County Fire/OES- Robert Malek/Andrew Loper/Alfredo Estrada Jr.	<input checked="" type="checkbox"/> EHS – Jorge Perez	<input checked="" type="checkbox"/> IC Sheriff's Office- Scott Sheppard
<input checked="" type="checkbox"/> Ag. Commissioner – Margo Sanchez	<input checked="" type="checkbox"/> EHS – Vanessa R Martinez	<input checked="" type="checkbox"/> IC Sheriff's Office- Ray Loera
<input checked="" type="checkbox"/> Board of Supervisors District #5 – Raymond Castillo	<input checked="" type="checkbox"/> IC Sheriff's Office-Ryan Kelley	<input checked="" type="checkbox"/> IC Sheriff's Office- Manuel Deleon
<input checked="" type="checkbox"/> IC Sheriff's Office- Robert Benavidez	<input checked="" type="checkbox"/> Ag. Commissioner –Ana L Gomez	<input checked="" type="checkbox"/> Ag. Commissioner –Carlos Ortiz

From: Derek Newland, Planner II - (442) 265-1736 or dereknewland@co.imperial.ca.us
Project ID: APP22-0002
Project Location: 2405 Holt Rd, Holtville, CA. APN 045-040-037-000

Project Description: Applicant is appealing the Notice of Violation #01643 for operating an auto parts repair shop in an A-2 and without building or electrical.

Applicants: KC Auto Service, LLC.

Comments due by: September 1st 2022 at 5:00PM

COMMENTS: (attach a separate sheet if necessary) (if no comments, please state below and mail, fax, or e-mail this sheet to Case Planner)

No comments
Name: Ana Gomez Signature: [Signature] Title: ag. biologist
Date: 8/23/2022 Telephone No.: 442 265 1500 E-mail: analomez@co.imperial.ca.us

DNMSIS:\\AllUsers\\APN\\045\\040\\037\\APP22-0002\\APP22-0002 Request for Comments 082322 .docx

ATTACHMENT “F”
Code Sections

TITLE 9

DIVISION 5: ZONING AREA ESTABLISHED

CHAPTER 8: A-2 (GENERAL AGRICULTURE ZONE) A-2-R (GENERAL AGRICULTURAL/RURAL ZONE)

§ 90508.00	PURPOSE AND APPLICATION
§ 90508.01	PERMITTED USES IN THE A-2 ZONE
§ 90508.02	USES PERMITTED WITH CONDITIONAL USE PERMIT
§ 90508.03	PROHIBITED USES
§ 90508.04	MINIMUM LOT/PARCEL SIZE
§ 90508.05	MINIMUM LOT AREA/DWELLING
§ 90508.06	YARDS AND SETBACKS
§ 90508.07	HEIGHT
§ 90508.08	MINIMUM DISTANCE BETWEEN STRUCTURES
§ 90508.09	PARKING
§ 90508.10	SIGNS
§ 90508.11	LANDSCAPING
§ 90508.12	SPECIAL REVIEW PROCEDURES AND DEVELOPMENT STANDARDS

§ 90508.00 PURPOSE AND APPLICATION

The purpose of the A-2 (General Agriculture), [40 Acre minimum] Zone is to designate areas that are suitable and intended primarily for agricultural uses (limited) and agricultural related compatible uses.

§ 90508.01 PERMITTED USES IN THE A-2 ZONE

The following uses are permitted in the A-2 Zone provided they meet the requirements of this Title:

- a) Agricultural accessory structure(s) (including cargo containers)
- b) All agricultural and grazing uses, including breeding and/or grazing of animals as follows:
 - 1. On parcels greater than 30 acres, no limit for temporary or transitory grazing provided primary food source is a product grown on site and any import is a supplement and does not generate significant vector breeding (Strictly prohibited unless approved by CUP are: livestock feed lots; hog ranches, dairies, animal sales yards, cotton gins, dehydration units, labor camps, packing plants and other similar intense uses).
 - 2. On parcels less than 30 acres and parcels contiguous to four (4) or more homes:
 - a. Large animals (cattle, horses, etc.) not to exceed one (1) per half (½) acre;
 - b. Medium animals (goats, sheep, swine, etc.) not to exceed five (5) per half (½) acre;
 - c. Small animals (poultry, rabbits, etc.) not to exceed five (5);
 - d. (All such animals shall be maintained at least 50 feet from any residence).
- c) Animal Grooming, (no boarding of animals)
- d) Any Agricultural use permitted in the A-1 Zone, under § 90507.01 (a)
- e) Aquaculture to allow for the growing and harvesting of algae, fish, frogs, shrimp and similar aquatic products. This includes shipping but does not include processing.
- f) A "temporary" mobile home or recreational vehicle serving as a temporary residence during construction of a single family home, meeting the requirements specified in 90508.12 (c)
- g) Day Care home for less than five (5) people
- h) Electrical Vehicles Charging Stations as an Accessory Use. (incidental to Primary Use)
- i) Farm stand for products grown locally (no processing) subject to Section 90509.12 (A)
- j) General retail sales for products grown on site (no processing)
- k) Home Occupation per Division 4, Chapter 4 (home occupation permit required)
- l) Industrial Hemp: including the cultivation, harvesting and testing, and light processing, subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance

- m) Mineral exploration
- n) Oil, gas and geothermal exploration meeting requirements specified in Division 17
- o) One Single family dwelling
- p) Residential accessory structure(s)
- q) Residential care facility serving five (5) or fewer persons
- r) Single day fund raising event provided it is held no more than twice per year in an approved (meeting all Health and Safety, Traffic & Fire Code regulations) structure or facility. Any such event shall notify the Planning & Development Services Department, Public Works, EHS and Fire at least sixty (60) days prior to the event and request a written approval. The County shall inspect the facilities and may upon compliance with applicable regulations approve the use. If the facility does not or cannot meet the minimum requirements the County shall not approve and the event shall not be held at the specified location. (Temporary Use Permit)
- s) Solar energy extraction generation provided that it is for on-site consumption only
- t) The growing and harvesting of all types of crops including but not limited to the following: Berry crops, Bush crops, Field crops, , Flowers and horticultural Specialties, Green house, Nursery, Nut and fruit trees, Timber, Vegetables, Vine crops
- u) Wildlife Preserve
- v) Wind driven electrical generator for on-site consumption of electricity

§ 90508.02 USES PERMITTED ONLY WITH A CONDITIONAL USE PERMIT

The following uses are permitted in the A-2 Zone provided they meet the requirements of this Title:

- a) Abattoir or animal slaughter house and/or meat packing facilities
- b) Accessory Dwelling Unit (one additional) unit per legal parcel, not to exceed two (2) per legal parcel which cannot then be subdivided at a later date
- c) Agricultural related trucking business (trucking predominantly agricultural products)
- d) Airports or aircraft landing fields Airport for private non-commercial use and agricultural air applicators
- e) Animal hospitals, kennels and veterinarians office
- f) Animal Kennel or boarding facility
- g) Animal sales yards or stockyard
- h) Animal shelters
- i) Animal training facility
- j) Battery Storage Facility (must be connected to an existing electrical power generation plant such as solar, geothermal, wind, natural gas, or other renewable energy generator, as an accessory unit to said power plant)
- k) Breeding and raising of animals in excess of the limits specified in 90508.01
- l) Cemetery or Mausoleum
- m) Cheese & other dairy product manufacturing
- n) Chickory processing facilities
- o) Circus or carnival, Country Club, or other amusement facilities
- p) City, County, State, and Federal enterprises, inclg buildings, facilities and uses of departments or institutions thereof which are necessary or advantages to the general welfare of the community
- q) Cold storage facilities for agricultural products only
- r) Commercial nurseries
- s) Communication Towers: including radio, television, cellular, digital, along with the necessary support equipment such as receivers, transmitters, antennas, satellite dishes, relays, etc. (subject to requirements of this zone and Division 24; Section 92401 "Communications Facilities Ordinance" et al).
- t) Concrete or Asphalt Batch Plant (Temporary, less than 180 days)
- u) Contract Harvesting businesses (not trucking business)
- v) Cotton gins
- w) Dairies
- x) Dehydration mills

- y) Electrical generation plants (less than 50 mw) excluding nuclear or coal fired and meeting requirements in Division 17
- z) Electrical substations in an electrical transmission system (500 kv/230 kv/161 kv).
- aa) Equestrian establishments, stables and riding academies
- bb) Facilities for the transmission of electrical energy (100-200 kv)
- cc) Farm equipment rental agencies
- dd) Farm implement sales and farming related metal fabrication
- ee) Farm labor housing for onsite farm employees (Employee Housing)
- ff) Fireworks; assembly and storage according to §90501.17
- gg) Flood Control Facility
- hh) Fruit and vegetable packing plants
- ii) Geothermal test facilities, Intermediate projects, and major exploratory wells, meeting requirements in Division 17
- jj) Grain storage and loading facilities
- kk) Gun Club
- ll) Hay processing and storage
- mm) Heliports
- nn) Hunting and fishing clubs
- oo) Land application of sludge or similar "waste" material to agricultural land
- pp) Livestock feed yards or stockyards to include onsite agricultural material composting
- qq) Major facilities relating to the generation and transmission of electrical energy, provided such facilities are not, under State or Federal law, to be approved exclusively by an agency or agencies of the State and/or Federal governments and provided that such facilities shall be approved subsequent to coordination and review with the Imperial Irrigation District for electrical matters.
- rr) Major Geothermal projects per Division 17
- ss) Manufacturing building materials from agricultural products
- tt) Meat and fish packing plants
- uu) Poultry farming including hatching, breeding, butchering, processing or shipping of chickens, turkeys or other fowl or poultry, including eggs
- vv) Public Agency Structure
- ww) Resource extraction and energy development as per Division 17
- xx) Scale repair facility (truck or other large unit)
- yy) Seed mills
- zz) Small ethanol plant with a capacity not to exceed one million gallons a year
- aaa) Solar Energy Electrical Generator
- bbb) Special Occasion Facility
- ccc) Temporary Real Estate offices
- ddd) Temporary Construction office/yard
- eee) Trade Fairs and Exhibits (temporary, less than ten (10) days)
- fff) Transfer Station for solid waste
- ggg) Transportation, Treatment Units (TTU's) which are used to process/treat hazardous and/or non-hazardous waste/material and which may or may not require permit from such agencies as Department of Health Services, Regional Water Quality Control Board and Air Pollution Control Board. TTU's shall not be allowed in any zone without the issuance of a Conditional Use Permit. TTU's shall only be considered for permitting if there is an existing industrial, manufacturing or commercial use, and then only for a limited period not to exceed ninety (90) days
- hhh) Waste to energy facility less than 10 megawatt
- iii) Water and/or Wastewater Treatment Plant
- jjj) Wind Driven Electrical Generator, for commercial sale as per Division 17

§ 90508.03 PROHIBITED USES

All other uses not expressly permitted by Section 90508.01 or 90508.02 are prohibited.

§ 90508.04 MINIMUM LOT/PARCEL SIZE

Division 5 Adopted November 24, 1998 (Amended December 16, 2003) (Amended August 3, 2004) (Amended October 31, 2006) (Amended January 29, 2008) (Amended July 2, 2013 MO#12) (Amended December 9, 2014) (Amended April 18, 2017) (Amended October 15, 2019) (Amended December 15, 2020) (Amended February 8, 2022)

No portion of any lot within the A-2 Zone shall contain less than forty (40) acres gross (existing parcels at time of adoption of this Title are legal), except in the case of a conveyance to or from a governmental agency or public entity, for public purpose, public utility purpose (non-fee) right-of-way. The intent is to maintain agricultural and in the largest farmable parcel configurations.

EXCEPTION: (The lot sizes in any Lot Reduction Exception may require minimum net land area per dwelling unit if an OWTS will be used, as required by County Ordinance §8.80.150..

LOT REDUCTION EXCEPTION #1

Notwithstanding Section 90508.04, the Planning Director or Planning Commission may approve a parcel map creating no more than two (2) parcels where one or both of the parcels is smaller than the applicable minimum parcel size only if the following conditions can be met.

- a. The subdivision is to authorize conveyance of an existing single family dwelling which was actually constructed prior to April 1, 1976.
- b. The subdivider agrees to convey and surrender development rights to the County covering a sufficient remainder of property to guarantee that the reduction in the lot area will not result in an increase in the density of residential uses than otherwise permitted in the zone in which the property is located. Such a conveyance shall be in a form approved by the Planning Director and shall be recorded with the final parcel map.
- c. Compliance is made with all other requirements contained in this Title.

LOT REDUCTION EXCEPTION #2

Notwithstanding Section 90508.04, the Planning Director or Planning Commission may approve a parcel map creating no more than four (4) parcels where one or all of the parcels is smaller than the applicable minimum parcel size only if all of the following conditions and findings can be met.

CONDITIONS

There are existing small parcels within identified existing enclaves that meet all (a.-e.) of the following parameters:

- a. The existing and the proposed parcels meet or can meet minimum health and safety standards for potable water, for fire protection, for police protection and for sewage disposal.
- b. There are six (6) or more existing small contiguous parcels (1/2 to 10 acres maximum) within a confined area.
- c. There are at least six (6) existing residences within the enclave.
- d. The enclave consists of parcels sized to allow further division while still meeting minimum parcel sizes that can meet the requirements of this Division.
- e. The further division of land within the enclave does not promote the enlargement of the outer boundary of the area.

FINDINGS

To allow divisions of land within an identified enclave the Commission and/or Board of Supervisors must be able to make the following findings:

- a. The division is within an impacted enclave that will not adversely impact surrounding agricultural operations,
- b. The division enhances agricultural land protection by converting existing impacted land more efficiently and by keeping other agricultural land protected
- c. The division is within an existing enclave of six (6) or more shall (1/2 to 10 acre) parcels, and six (6) or more existing residences,
- d. The parcel (s) shall not be less than .5 acres net if a full soils report shows adequate soil conditions to support development and long term sewage disposal capacity. Larger size parcels will be required, if the soil report or other factors necessitate,
- e. The area can be provided adequate fire and police protection services. A written statement from the Fire Department and the Sheriff/Police Department shall be required,
- f. The division can mitigate and comply with added traffic impacts,
- g. The proposed division has an adequate supply of water to each parcel, through an acceptable conveyance system, and can or will provide potable water to each parcel,
- h. Each existing, as well as proposed parcel, abuts a public road or highway and/or has legal and physical access via a County road,
- i. The long term impacts of additional sewage disposal system within the enclave is verified and can sustain the additional loads as shown by acceptable engineering studies.

§ 90508.05 MINIMUM LOT AREA/DWELLING UNIT

There shall be no more than one principal single family dwelling per legal lot in the A-2 Zone, except with a conditional use permit. There shall be a minimum one acre per dwelling unit, for the first unit, and there shall be a minimum of 30,000 square feet for any additional dwelling unit that may be allowed. However, when an OWTS is proposed for any dwelling unit, the lot area per dwelling unit shall be a minimum of (2.5) two and a half acres as set forth in County Ordinance §8.80.150..

§ 90508.06 YARDS AND SETBACKS

The following yard setback requirements shall apply in the A-2 Zone:

- A. **FRONT YARD.** Except as otherwise provided, the front yard minimum setback for all buildings shall be as follows:

The minimum front yard setback for all buildings within the A-2 Zone shall be 30 feet from the front yard property line or edge of public right-of-way, or in absence of a known (identifiable) property line, 80 feet from centerline of any existing or proposed secondary road or highway. In no case shall the front yard minimum setback be less than 30 feet from the edge of right-of-way.

- B. **SIDE YARD.** Except as otherwise provided, the side yard minimum setback for all buildings shall be as follows:

Side yard setback on each side of any building of not less than five (5) feet, except that on street sides of a corner lot, the building shall be setback a minimum of thirty (30) feet from the edge of right-of-way.

- C. REAR YARD. Except as otherwise provided, the rear yard minimum setback for all buildings shall be as follows:

There shall be a rear yard setback of not less than ten (10) feet for all structures, except that in the case of through lots that designate rear yard shall be the equivalent of the front yard.

§ 90508.07 HEIGHT

The following height limits apply in the A-2 Zone.

- A. Residential buildings shall not exceed three (3) stories in height or forty (40) feet.
- B. Radio and television antennae, chimney and other residential accessory features, structures, shall not exceed sixty (60) feet in height and as may be required by Airport Land Use Compatibility Plan (ALUCP).
- C. Non-Residential structures and commercial communication towers shall not exceed one hundred twenty (120) feet in height, and shall meet ALUC Plan requirements.
- D. All height limits shall also be subject to the restrictions of other divisions including airport approach zones, etc.

§ 90508.08 MINIMUM DISTANCE BETWEEN STRUCTURES

The following requirements shall apply to the minimum distance between structures in the A-2 Zone.

- A. There shall be least ten (10) feet between any residential structure and a residential accessory structure.
- B. There shall be at least fifteen (15) feet between residential structures.
- C. There shall be at least fifty (50) feet between any residential structure and a non-residential structure housing animals, including pens, coops, stables, barns.
- D. There shall be a minimum of one hundred (100) feet between any sanitary disposal system and a groundwater well.
- E. There shall be at least one hundred (100) feet between any structure/pen housing animals and a groundwater well or potable water supply.

§ 90508.09 PARKING

Off-street parking in the A-2 Zone shall be provided in accordance with the requirements of Section 90402.01A (Residential Uses). Each single family dwelling shall meet this requirement. Additional parking shall be required for accessory or secondary uses.

§ 90508.10 SIGNS

The following signs shall be permitted in the A-2 Zone; however, all signs shall be subject to Section 90401 as applicable.

1. Temporary real estate signs not exceeding 20 sq. ft., and advertising the property for sale or lease, and meeting requirements of Division 4, Chapter 1, of this Title.
2. Temporary construction signs related to construction on said property, meeting requirements of Division 4, Chapter 1.
3. Temporary political, religious, civic and campaigning signs not to exceed three (3) months, meeting requirements of Division 4, Chapter 1.
4. Signs approved in conjunction with a Conditional Use Permit approved for the site.
5. Temporary agricultural signs as allowed by Section 90401.10.

§ 90508.11 LANDSCAPING

Landscaping for non-residential development in the A-2 zone shall be the same as the M-1 zone (excluding crop and tree farming). Landscaping for residential development shall be the same as the R-1 zone.

§ 90508.12 SPECIAL REVIEW PROCEDURES AND DEVELOPMENT STANDARDS

The following special review procedures and development standards shall apply in the A-2 Zone.

- A. Temporary farm stand for the sale of agriculture, horticultural or farming products, permitted within the A-2 Zone shall comply with the following standards:
 1. Comply with standards of Division 17 of the Food & Agricultural Code and Chapter 12.5 of the California Health & Safety Code.
 2. The floor area of the farm stand shall not exceed 600 square feet.
 3. The farm stand shall not be located closer than 25 feet from the driveway line of the front yard.
 4. The stand shall be erected in such a manner that it can be readily removed.
 5. The owner shall remove the stand at his or her own expense, when the stand is not in use for a period of sixty (60) consecutive days.
 6. Customer parking, at the ratio of one car per 100 square feet, with a minimum of two (2) car spaces shall be provided, and shall be surfaced to prevent fugitive dust emissions.
- B. A mobile home or recreational vehicle permitted as a temporary dwelling during construction of a conventional dwelling shall comply with the following standards.
 1. Building permits for construction of a conventional single family residence shall be obtained prior to or concurrent with the installation of the permit for the mobile home or RV.
 2. The mobile home shall be removed from the premises if:
 - a. 6 months has passed since the mobile home or recreational vehicle was installed;

- b. 7 days has passed since the conventional dwelling was approved for occupancy;
 - c. The building permit has lapsed due to lack of activity.
- 3. One extension of time for a period not to exceed six (6) months may be directed by the Director of Planning, upon written request by the property owner. Extension may only be approved subject to the following condition:
 - a. An active building permit is on file with Imperial County Planning & Development Services Department.
 - b. The construction of a conventional dwelling unit on the site has progressed to a stage of inspection and approval, for the framing, rough electric, rough mechanical and top out.

C. TEMPORARY VISITORS USE

While the use of Recreational Vehicles (R.V.'s) is not allowed as temporary or permanent residential dwellings, the incidental and occasional utilization of an R.V. may be allowed under the following conditions:

- 1. An R.V. may be connected to utilities and occupied for a period not to exceed two weeks annually per Title 12.04 et al. of the Imperial County Codified Ordinance.
- 2. The R.V. connections are installed to meet applicable Health and Safety Code Regulations, and permitted by Planning & Development Services Department.
- 3. The R.V. connections are for the primary use and are not independent service connections.
- 4. The R.V. is not allowed in or upon any public street or right-of-way.

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TITLE 9

DIVISION 5: ZONING AREAS ESTABLISHED

CHAPTER 7: A-1 (LIMITED AGRICULTURE) (WITHIN URBAN BOUNDARIES ONLY)

§ 90507.00	PURPOSE AND APPLICATION
§ 90507.01	PERMITTED USES IN THE A-1 ZONE
§ 90507.02	USES PERMITTED WITH A CONDITIONAL USE PERMIT
§ 90507.03	PROHIBITED USES
§ 90507.04	MINIMUM LOT SIZE
§ 90507.05	YARDS AND SETBACKS
§ 90507.06	HEIGHT LIMITS
§ 90507.07	MINIMUM DISTANCE BETWEEN STRUCTURES
§ 90507.08	PARKING
§ 90507.09	SIGNS
§ 90507.10	LANDSCAPING
§ 90507.11	ANIMALS
§ 90507.12	GARAGE/YARD SALES
§ 90507.13	SPECIAL REVIEW PROCEDURE AND DEVELOPMENT STANDARDS

§ 90507.00 PURPOSE AND APPLICATION

The purpose of the A-1 designation is to designate areas and allow uses that are suitable for larger residential living environments. The uses are generally limited to those typical of and compatible with quiet residential neighborhoods. The minimum lot size shall be one-half acre (net), unless required to be larger by other regulatory requirements, such as health and safety standards. The minimum lot size in the A-1 Zone may be reduced if public infrastructure including sewer and potable water are available from either a district or a city. The A-1 designation is only allowed within urban designated areas as reflected on the land use diagram of the County General Plan.

COMMENT: The acreage here needs to be "net" vs. "gross" due to the fact that the absolute minimum amount of land needed for sewage disposal is 20,000 square feet of usable land, and the County already has numerous locations where this creates problems.

§ 90507.01 PERMITTED USES IN THE A-1 ZONE

The following uses are permitted in the A-1 Zone provided they meet the requirements of this Title:

- a) Accessory agricultural building, structures, and uses, including farm buildings, housing of agricultural workers, garages and implement shelter, provided no livestock or any building or enclosure used in connection with livestock shall be located nearer than one hundred (100) feet to the front lot line, nor nearer than fifty (50) feet to any existing dwelling on any contiguous property, or to any public park or school.
- b) Accessory Dwelling Unit provided it complies with Imperial County code sections Title 9 Section 90405.01 and Title 8 Section 8.80.150 Subsection C.
- c) Agricultural accessory structure(s) (including cargo containers)
- d) Agricultural crops, private greenhouses and horticultural collections, flowers and vegetable gardens, fruit trees, nut trees, vines and nurseries for producing trees, vines and horticultural stock
- e) Agricultural uses, (light farming only)
- f) Apiaries
- g) Breeding and raising of animals pursuant to the requirements of this Chapter
- h) Crop and tree farming, pasturing and grazing, provided, however, that not to exceed one horse, mule, or cow; five hogs, goats, sheep or other similar livestock be permitted for each one half (1/2) acre of the area of the parcel of land upon which the same are kept (except suckling animals), except that the

pasturing of livestock to feed on vegetable matter grown on said premises may be permitted. Feeding of garbage, (cooked or raw), shall not be permitted, nor shall a "feed lot" style operation be allowed. Other animals similar to those listed by example and having similar impact may be allowed at the same ratio of the "similar" animal.

- i) Daycare Home for less than five (5) people
- j) Electrical Vehicles Charging Stations as an Accessory Use. (incidental to Primary Use)
- k) Employee Housing
- l) Growing of agricultural crops for domestic use of the resident occupant
- m) Hatching, raising and fattening of chickens, turkeys or other fowl or poultry and rabbits, fish or frogs for domestic or commercial use provided that no commercial poultry pen or coop or commercial rabbitry shall be maintained within fifty (50) feet of any dwelling or other building used for human habitation. There shall be no killing or dressing of any such animals or poultry on the premises for commercial purposes.
- n) Home occupation per Division 4, Chapter 4 (Home Occupation Permit required)
- o) Keeping of horses and other large animals on lots having an area of one (1) acre or more, providing that the number of horses on any one lot or parcel shall not exceed one horse for every three quarters (3/4) acre, or keeping of farm animals under recognized youth programs. The keeping of such animals shall conform to all other provisions of law governing same, and no horses, nor any stable, barn or corral shall be kept or maintained within fifty (50) feet of any dwelling or other building used for human habitation, or within one hundred (100) feet of the front lot line of the lot upon which is located or within one hundred (100) feet of any public park, school, hospital, or similar institution.
- p) Mobile Home or Recreational Vehicle, temporary during construction of a single family dwelling,
- q) Park or Playground (public)
- r) Preschool, Elementary School, Junior High School, Senior High School, College or University
- s) Public buildings
- t) Public Swimming Pool (public)
- u) Residential accessory structures
- v) Residential care facilities serving six (6) or fewer people
- w) Signs advertising the products produced or sold locally or identifying the premises or occupants.
- x) Single family dwelling (conventional or manufactured)
- y) Single-Room Occupancy (SRO) Units and Boarding/Rooming Houses
- z) Solar energy extraction generation provided that it is for on-site consumption only. .
- aa) Storage of agricultural products
- bb) Storage of products for use on the premises
- cc) Transitional Housing (as defined in Section 50675.2 of the Health and Safety Code)
- dd) The keeping of poultry, rabbits and similar small animals
- ee) The sale of agricultural, horticultural or farming products grown or produced on the premises of the owner.
- ff) Wind driven electrical generator for on-site consumption

§ 90507.02 USES PERMITTED ONLY WITH A CONDITIONAL USE PERMIT

The following uses are permitted in the A-1 Zone provided they meet the requirements of this Title:

- a) Animal shelters
- b) Birds, including show or racing pigeons, and other small fowl not in excess of 25 per half acre
- c) Cemeteries, Mausoleums, Columbariums
- d) Church
- e) Club or Lodge
- f) Community Care Facility
- g) Community Center
- h) Community Recreational Facility
- i) Construction office/yard, temporary only
- j) Country Club

- k) Emergency shelters
- l) Equestrian Establishment
- m) Facilities for abused people
- n) Fish, frog and shrimp farms
- o) Golf Course, Golf Driving Range
- p) Gun Club
- q) Heliports
- r) Library
- s) Museum
- t) Mineral Exploration
- u) Mineral Extraction
- v) Mortuaries
- w) Oil, gas and geothermal exploration
- x) Potable water treatment and Wastewater Treatment Plant
- y) Preschool, Elementary School, Junior High School, Senior High School, College or University
- z) Public Agency or Public Utility building or structure
- aa) Race Track or Test Track, including automobile, bicycle, horse or motorcycle
- bb) Rehabilitation Facility
- cc) Resource Extraction
- dd) Rest home, Retirement Home
- ee) Sanitarium
- ff) Scale repair facility
- gg) Senior Citizen Center
- hh) Solar Energy generation at more than ten (10) kilowatts
- ii) Tennis or Swim Club
- jj) Utility and Communication Facilities
- kk) Utility Substations not specifically exempted by other statutes

§ 90507.03 PROHIBITED USES

All other uses not permitted by Sections 90507.01 or 90507.02 are strictly prohibited.

§ 90507.04 MINIMUM LOT SIZE

Except as otherwise provided, no portion of any lot within the A-1 Zone shall be less than one-half acre (net), except in the case of a conveyance to or from a governmental agency, public entity, public utility or community water company or water district, for public purposes, public utility purposes or for rights-of-way, provided such governmental use occupies said parcel. The minimum lot size may be required to be larger than one (1) acre if an OWTS will be used, as required by County Ordinance §8.80.150..

§ 90507.05 YARDS AND SETBACKS

The following yard and setback requirements shall apply in the A-1 Zone:

- A. Front Yard. Except as otherwise provided, the front yard minimum setback for all buildings shall be as follows:
 - 1. 25 feet from the edge of right-of-way, or
 - 2. 60 feet from the legal center line of any existing or proposed County road. In no case shall the minimum setback be less than 25 feet from the edge of right-of-way as established by the County.
- B. Side Yard. Except as otherwise provided, the side yard minimum setback for all buildings shall be as follows:

There shall be a side yard on each side of any building of not less than five (5) feet, except that on the street side of a corner lot, the building shall be setback at least fifteen (15) feet from the edge of right-of-way/property line.

- C. Rear Yard. Except as otherwise provided, the rear yard minimum setback for all buildings shall be as follows:

There shall be a rear yard setback of not less than five (5) feet, except in the case of a through lot, the designated rear yard shall be equal to the front yard setback.

§ 90507.06 HEIGHT LIMIT

Height limits in any district shall be as follows:

1. Residential buildings shall not exceed three (3) stories or forty (40) feet.
2. Detached accessory structures shall not exceed two (2) stories or thirty (30) feet.
3. Radio and television antennae, chimneys and other similar structures shall not exceed sixty (60) feet.

§ 90507.07 MINIMUM DISTANCE BETWEEN STRUCTURES

The following requirements apply to the minimum distance separation between structures in the A-1 Zone.

- A. There shall be a minimum distance of ten (10) feet between residential buildings/structures.
- B. There shall be a minimum distance of ten (10) feet between residential buildings and any accessory building. However, there shall be a minimum of fifty (50) feet between any residential building and an accessory structure used to house animals, including pens, coops and other structures. Structures used to house animals shall be a minimum of 100 feet from any public park, school, hospital or similar institution, and a minimum of fifty (50) feet from any adjacent residential structure.

§ 90507.08 PARKING

Off street parking in the A-1 Zone shall be provided in accordance with the standards contained in Sections 90402.00 et seq.

§ 90507.09 SIGNS

The following signs shall be permitted in the A-1 Zone; however, all signs shall be subject to Section 90401 as applicable.

1. Temporary real estate signs not exceeding 20 sq. ft., and advertising the property for sale or lease, and meeting requirements of Division 4, Chapter 1.
2. Temporary construction signs related to construction on said property, meeting requirements of Division 4, Chapter 1.
3. Temporary political, religious, civic and campaigning signs not to exceed three (3) months, meeting requirements of Division 4, Chapter 1.
4. Signs approved in conjunction with a Conditional Use Permit approved for the site.

5. Temporary agricultural signs as allowed by Section 90401.10.

§ 90507.010 LANDSCAPING

Landscaping for non-residential development in the A-1 zone shall be the same as the M-1 zone (excluding crop and tree farming). Landscaping for residential development shall be the same as the R-1 zone.

§ 90507.11 ANIMALS

The breeding, keeping or maintaining of large or medium size animals shall be limited to the allotted amount as set forth in Section 90507.01 for non-residential uses; however, for residential uses, the following requirements shall apply in the A-1 zone:

- A. Lots greater than $\frac{1}{2}$ but less than 1 acre net may keep two medium animals per acre provided the separation distances under Section 90507.07 can be achieved.
- B. Lots greater than $\frac{3}{4}$ acre net may keep and maintain one large animal per $\frac{3}{4}$ acre up to 5 acres, and one large animal for every 5 acres of lot area thereafter (i.e. 40 acre lot equals 12 large animals). Small animals (i.e. goats, sheep, etc.) shall be allowed at the ratio of 1 large animal equals two small animals. Separation as required under Section 90502.08 shall be met.
- C. Lots allow for the keeping of small fowl, rabbits, birds, provided as follows: they are for domestic or hobby purposes; are maintained within proper enclosed/containment structures; are not free to leave the property; and the number of such animals does not exceed 5 of any one or combination thereof.
- D. The keeping of small domestic pets such as cats and dogs are allowed for non-commercial uses, and the number of such animals does not exceed 5 of any one or combination thereof.
- E. Special project animals considered to be a student oriented fair project that may be sponsored by an agricultural organization such as FFA or 4H may allow for the keeping of one large animal or two medium animals per parcel provided that they are:
 2. For the duration of the FFA/4H or agricultural fair schedule or 7 months maximum whichever is less;
 2. The property owner files an affidavit with the Planning & Development Services Department to verify it is a legitimate special project, including the name of the club, club leader and other information required by the Planning Director.

NOTE: The keeping of animals as designated is only allowed to the extent that said animals do not constitute a nuisance or public health hazard.

§ 90507.12 GARAGE/YARD SALES

Garage or yard sales are permitted without special use permits, provided they meet the following conditions:

- A. Sales last no longer than two (2) consecutive days.
- B. Sales are held no more than two (2) times a year.
- C. Sales are contained within the property.
- D. No goods purchased for re-sale are evident.
- E. Directional signs shall be removed immediately after sale ends.
- F. Directional signs shall not exceed 9 square feet.
- G. Directional signs may be placed on public right-of-way provided they do not interfere with traffic.
- H. Directional signs on private property shall have property owners (not tenants) permission.

- I. Directional or other signs not removed within 24 hours after sale ends shall be fined \$50.00.
- J. No signs shall be posted on utility posts/pole, or other highway information or directional sign.
- K. Violation of one or all of items (a) through (j) is a misdemeanor and may be cited as such.

§ 90507.13 SPECIAL REVIEW PROCEDURE AND DEVELOPMENT STANDARDS

The following special review procedures and development standards shall apply in the A-1 Zone.

- A. The breeding and raising of livestock permitted pursuant to this section shall be limited to one horse, one donkey, one mule, one cow, one buffalo, one llama, five goats, five sheep, or five other similar size animals per half acre.
- B. Temporary farm stand for the sale of allowed agriculture, horticultural or farming products, permitted within the A-1 Zone shall comply with the following standards:
 - 1. The floor area of the farm stand shall not exceed 600 square feet.
 - 2. The farm stand shall not be located closer than 25 feet from the driveway line of the front yard.
 - 3. The stand shall be erected in such a manner that it can be readily removed.
 - 4. The owner shall remove the stand at his or her own expense, when the stand is not in use for a period of one hundred twenty (120) consecutive days.
 - 5. Customer parking, at the ratio of one car per 100 square feet, with a minimum of two (2) car spaces shall be provided, and shall be surfaced to prevent fugitive dust emissions.
- C. The breeding and raising of livestock in numbers greater than that allowed by subsection A, by minors in conjunction with a student oriented fair project sponsored by a bona fide agricultural organization, such as FFA or 4-H, shall be permitted upon application to and approval by the Director of Planning for a temporary permit. The contents of the application shall contain the following information:
 - 1. Name and address of applicant.
 - 2. Name and address of property owner.
 - 3. Assessor's Parcel Number.
 - 4. Legal description of the property.
 - 5. Name of organization sponsoring applicant.
 - 6. Plot plan showing location of proposed pens, coops, or areas for raising of animals, and principal residential structures, both on site and immediate adjacent to subject site.
 - 7. The signature of the owner of the real property.

D. TEMPORARY VISITORS USE

While the use of Recreational Vehicles (R.V.'s) is not allowed as temporary or permanent residential dwellings, the incidental and occasional utilization of an R.V. may be allowed under the following conditions:

1. An R.V. may be connected to utilities and occupied for a period not to exceed two weeks annually per Title 12, Section 04 et al.
2. The R.V. connections are installed to meet applicable Health and Safety Code Regulations, and has been approved by Planning & Development Services Department.
3. The R.V. connections are for the primary use and are not independent service connections.
4. The R.V. is not allowed in or upon any public street or right-of-way or setback area.

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TITLE 9

DIVISION 1 ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 1:	<u>AUTHORITY-PURPOSE & APPLICABILITY</u>
CHAPTER 2:	<u>PLANNING & DEVELOPMENT SERVICES DEPARTMENT</u>
CHAPTER 3:	<u>PLANNING COMMISSION</u>
CHAPTER 4:	<u>HEARING PROCEDURE</u>
CHAPTER 5:	<u>NON-CONFORMING USES, STRUCTURES, LOTS</u>
CHAPTER 6:	<u>ENCROACHMENT INTO SALTON SEA</u>
CHAPTER 7:	<u>CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)</u>
CHAPTER 8:	<u>PARKS AND RECREATION COMMISSION</u>

CHAPTER 1: AUTHORITY - PURPOSE AND APPLICABILITY

§ 90101.00	AUTHORITY AND CITATION
§ 90101.01	PURPOSE
§ 90101.02	APPLICABILITY
§ 90101.03	RELATIONSHIP TO OTHER REGULATIONS
§ 90101.04	PROJECTS UNDER CONSTRUCTION
§ 90101.05	GENERAL COMPLIANCE
§ 90101.06	INTERPRETATION
§ 90101.07	VIOLATIONS/PENALTY
§ 90101.08	JUDICIAL REVIEW TIME
§ 90101.09	SEVERABILITY
§ 90101.10	FINALITY OF DECISION
§ 90101.11	DECISION AUTHORITY

§ 90101.00 AUTHORITY AND CITATION

This Title (Title 9 inclusive) is hereby established and adopted pursuant to the authority vested in the County of Imperial by the State of California, including but not limited to the State Constitution, Government Code, Public Resources Code, the California Environmental Quality Act, the Subdivision Map Act, the Housing Act, and the Surface Mining & Reclamation Act. This ordinance shall be known as, and may be cited and referred to as, the "**LAND USE ORDINANCE**" or **Title 9** of the County of Imperial, hereinafter referred to as "TITLE".

§ 90101.01 PURPOSE

The text, including any tables, metrics, charts, sketches, and the official zoning maps referenced in this Title shall constitute the comprehensive land use regulations for all unincorporated areas of the County of Imperial. These regulations are adopted to promote and protect the public health, safety, and general welfare through the orderly regulation of land uses throughout the unincorporated areas of the County.

Furthermore, the purpose of this ordinance is also to:

- A. Assure and guide development consistent and in conformity with the Imperial County General Plan.
- B. Provide the economic and social advantages, which result in the orderly planned use of all land resources.
- C. Assist the public in identifying and understanding regulations affecting the development and use(s) of land.
- D. Provide for environmentally safe, conducive growth and development.
- E. Establish beneficial, convenient and compatible relationships between land uses.

- F. Regulate the size, quantity, services, use of parcels, lots, yards, and other open spaces.
- G. Regulate the use, location, height, bulk, size of all buildings, structures, and/or physical improvements.
- H. Uniformly regulate the use and building intensity of land.
- I. Regulate and control the division of land within the County of Imperial
- J. Regulate the density of population in residential and non-residential areas.
- K. Establish requirements for parking, signs, billboards, wells, towers, mines, solar, and landscape.
- L. Provide for uniform and consistent enforcement of these regulations.

§ 90101.02 APPLICABILITY

The provisions and conditions of this Title shall apply to all lots, parcels, structures, use(s) of land or bodies of water created, utilized, established, constructed, altered, or improved by any person, firm, corporation, or organization; by the United States or any of its agencies; by the State of California or any of its agencies or political subdivisions; by any County or City; by any authority, district or public entity organized under the laws of the State of California. A governmental agency shall be exempt from the provisions of this chapter only to the extent that such property or use(s) may not be lawfully regulated by Imperial County.

EXEMPTION (PUBLIC ROADS)

The provisions of this Title are not applicable to construction and maintenance of public roads and other improvements that are within road right-of-way, provided such improvements are under the authority of the Imperial County Public Works Department or the California Department of Transportation (CalTrans),

Any such improvement that is not under the direct authority of the Department of Public Works or the CalTrans shall be subject to this Title.

EXEMPTION (PRE-EMPTION)

Specifically exempted is any area of regulation that is preempted by Federal or State Law. It shall, however, be the burden of proof of any person, firm, corporation or public entity or agency to provide to the Planning & Development Services Department the law or section granting such specific exemption. Until the County is satisfied that a pre-emption exists, it shall be unlawful and a violation of this Title for any person, firm, corporation, organization, private agency or public agency to establish, construct, alter, repair, replace, operate or maintain any building, structure or use of land or body of water in violation of or without complying with all the provisions of this Title.

Enforcement shall be implemented as described in Division 13.

§ 90101.03 RELATIONSHIP TO OTHER REGULATIONS

All uses of land and development authorized or governed by this Title shall comply with all other applicable local, State, or Federal regulations and/or requirements. Where two or more ordinances, laws or regulations govern the same use or activity the more restrictive law or ordinance shall apply.

§ 90101.04 PROJECTS UNDER CONSTRUCTION

Any project, building or structure for which a building permit has been issued prior to the effective date of this Title may be completed and used in accordance with the plan, specifications, and permits upon which said building permit was granted provided the construction is started within six months after the issuance of said building permit and is diligently pursued to completion. No extension of time shall be granted for the

completion of the construction beyond the initial 36-month period from date issued. In the event that the construction of the project continues for more than three years after the effective date of the building permit, the project building or structure shall meet the requirements of this Title.

EXCEPTION:

A variance from the strict time limit enforcement of this Section 90101.04 may be authorized by the Planning Director or the Planning Commission, pursuant to procedures under Division 2, Chapter 2, (Section 90202.00 et seq.) and provided that the Planning Director and/or the Planning Commission makes adequate findings.

§ **90101.05 GENERAL COMPLIANCE**

- A. It shall be unlawful for any building or structure to be moved, erected, reconstructed, added to, enlarged, altered, used, advertised on, or maintained for any use that does not strictly conform to provisions of this Title. No structure or land shall be used for any purpose except as specifically provided and allowed by this Title with respect to the land use, height, set back, lot coverage, and all other regulations, conditions and limitations prescribed by this Title.
- B. It shall be unlawful for any yard, open space, or land to be used for any purpose not specifically permitted by this Title.
- C. Any use not specifically permitted by the provisions of this ordinance is hereby strictly prohibited. Any and all prohibited uses specified at any place within this ordinance are examples only and are not to be construed or interpreted as a complete listing of any and all prohibited uses.
- D. No County Department, County official, or other employee of the County of Imperial entrusted with a duty or authority to issue permits or licenses for buildings, structures, or uses of land that are subject to the requirements of this Title shall issue a permit or license in conflict with the provisions of this chapter and this Title. All such County permits shall first be approved for zoning compliance, by the Planning & Development Services Department. Any permit or license or other grant of authority issued in conflict with any provisions of this Title shall be null and void.
- E. No permit, license or authorization to use premises shall be issued by any Department, Official, or employee of the County of Imperial for any building, structure, or land use, subject to the requirement of this Title on a parcel of land where the department, official or employee is aware that a violation of this Title exists at time of issuance.

§ **90101.06 INTERPRETATION**

- A. Provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.
- B. Terms and/or words not defined in this Title shall be interpreted as defined in Webster's Dictionary.
- C. Misinformation or information that is erroneously presented by any Official or employee of the County of Imperial does not negate, nor does it diminish the provisions of this Title.
- D. Whenever a number of days is specified in this Title, or in any permit, or condition of approval, or notice issued, or given as set forth in this ordinance, such number of days shall be deemed to be the consecutive calendar days unless otherwise specified.
- E. Whenever application of this Title results in a rounding of quantities such as fractions all quantities are to be rounded to the next higher whole number when the fraction is .50 or more and to the next lower whole number when the fraction is .499 or less.
- F. Wherever there is a need for interpretation as to meaning or intent of this legislative language, the Planning Director shall have the power to interpret the regulation and/or standards contained in this

Title. When such interpretation is necessitated by a lack of specificity in making such interpretation, the Planning Director shall take into consideration past policy, intent, health and safety concerns, and compliance with the General Plan. In the event that any person is aggrieved by the interpretation of the Planning Director, the interpretation may be appealed to the Board of Supervisors. The interpretation shall be in writing and shall become part of this Title only to the extent those future similar situations may use the same interpretation.

§ **90101.07 VIOLATIONS/ PENALTY**

Any person, firm, or corporation using any facility, building, structure, acreage, lot or parcel of land in violation of any provisions of this Title is guilty of a misdemeanor and shall be prosecuted to fullest extent of the law as provided for under Division 13.

§ **90101.08 JUDICIAL REVIEW TIME**

Any court action or other legal proceeding to attack, review, set aside, void or nullify matters pertaining to, or set forth in this Title or concerning any of the proceedings or determinations taken, or to determine the reasonableness, legality or validity of any condition shall be filed within thirty (30) days (or as provided by statute) after the date such action becomes final. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such action, determination or decision.

§ **90101.09 SEVERABILITY**

If any chapter, division, section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this Title is for any reason held to be invalid, unenforceable, or unconstitutional, such determination shall not affect the validity of the remaining portions of this Title. It is hereby declared by the Board of Supervisors, that this Title and each and every division, chapter, section, subsection, paragraph, sub-paragraph, sentence, clause, phrase and word would have been adopted irrespective of the fact that a portion of this Title is declared invalid, unenforceable or unconstitutional.

§ **90101.10 FINALITY OF DECISION**

Where a specific project has been heard through the required public hearing process and said hearing body (Planning Director, Planning Commission or Board of Supervisors) has reached a decision, said decision shall be deemed Final by that hearing body and no rehearing of the same project shall be allowed by that hearing body without the filing of a complete new application.

EXCEPTION:

- A. Where a decision of the Planning Director is appealable to the Planning Commission under provisions of this Title, any party may appeal that decision to the Planning Commission by filing a written request for an appeal along with the requisite fees with the Planning & Development Services Department, provided further that it is filed within ten (10) calendar days of the decision date, and is in compliance with Sections 90102.04.
- B. Where a decision of the Planning Commission is appealable to the Board of Supervisors under provisions of this Title, the applicant or any party may appeal the Planning Commission's decision to the Board of Supervisors, by filing a written request for appeal along with requisite fees with the Clerk of the Board of Supervisors, provided further that said appeal is filed within ten (10) calendar days of the Planning Commission's decision and is in compliance with Sections 90102.04.
- C. Where it is provided by statute or ordinance that the Board of Supervisors is the hearing body on a project, no appeal and no re-hearing shall be held by the Board except as provided herein.
- D. Where the Planning Commission is by this title or law or other ordinance the hearing body on a project, no re-hearing shall be allowed on a project, except as provided for herein.

- E. Both the Planning Commission and the Board of Supervisors shall only be allowed to re-hear or re-consider a project if any one or all of the following conditions are found to exist. The burden of proof that one or all of the following existed rests with the party requesting reconsideration:
1. A member of the decision-making body failed to declare a conflict of interest in the project, and the decision could be different, had said member abstained.
 2. Procedural errors occurred during the hearing process that in the opinion of County Counsel necessitate re-hearing the project.
 3. The hearing body clearly relied upon false or erroneous technical information in reaching its decision.
 4. The project was not legally or adequately noticed for the hearing as determined by County Counsel.
 5. A court of proper jurisdiction makes findings and orders the hearing body to re-consider the project.
 6. On a 4/5's vote the Board of Supervisors, upon making adequate findings, may re-consider a project.
- F. The following **shall not** be considered or allowed as grounds for a re-hearing:
1. Applicant or his representative were not adequately prepared.
 2. Opposition to a project was not adequately prepared.
 3. The full hearing body was not present for the decision, (unless the original hearing resulted in a tie vote).
 4. New information (which could have been or was available) is made available by applicant or any party.
 5. Relocation of project from one site to another.
 6. Change in representation on the hearing body.
 7. Any individual Board member or Commission member wants to re-consider.
 8. Threat of litigation.

§ 90101.11 DECISION AUTHORITY

The following matrix delineates the hearing body with authority to hear the project and an appeal on any project.

The key to symbols is as follows:

P/D= Planning Director- Building Official

P/C= Planning Commission

B/S= Board of Supervisors

(x) Represents the original hearing body on the specified project.

(0) Represents the body that may hear a project on appeal from decision of the original hearing body.

(-) Represents that there is no appeal hearing at this level.

(X0) Represents the body that may hear a project on appeal or the original hearing body.

1. Decision of the Planning Director acting as Building Official and related to construction determinations may be appealed under specific conditions to the Board of Supervisors, however, only after review and decision by Building Board of Appeals.
2. Decision of the Planning Director/Building Official on the Underground Storage Tank (UST) related permits may be appealed to the Board of Supervisors, however, only after review by the UST Appeals Board.
2. The term "Building Permits" shall include all construction permits, such as electrical, plumbing, mechanical, etc., and shall also include decisions and enforcement actions by the Building Official.
3. The Planning & Development Services Department Director may refer a project to the Planning Commission at his/her discretion.

PERMIT/PROJECT TYPE

HEARING BODY

	P/D	P/C	B/S
BUILDING PERMIT(S)	X	-	0 (1)
UST PROGRAM PERMITS	X	-	0 (2)
MOBILE HOME ANNUAL PERMIT (State)	X	-	-
MINOR SUBDIVISIONS	X	X0	0
MAJOR SUBDIVISIONS	N/A	X	0
LOT LINE ADJUSTMENTS	X	0	0
LOT MERGER	X	0	0
REVERSION TO ACREAGE	N/A	X	0
CERTIFICATE OF COMPLIANCE	X	0	-
CONDITIONAL USE PERMIT (Second Dwelling Only)	X	0	-
CONDITIONAL USE PERMIT (Minor)	X	0	-
CONDITIONAL USE PERMIT (Intermediate)	N/A	X	X0
CONDITIONAL USE PERMIT (Major)	N/A	X	X0
GENERAL PLAN AMENDMENT	N/A	X	X
ZONE CHANGE	N/A	X	X
SPECIFIC PLAN(S)	N/A	X	X-
VARIANCE	X	X0	0
CEQA CERTIFICATIONS (Negative/Mitigated Dec only)	X	X	X
CEQA CERTIFICATIONS (EIR)	N/A	X	X-
NOTICE OF EXEMPTION	X	X0	0
MINING PERMITS	N/A	X	0
MINING EXPLORATORY	N/A	X	0
RECLAMATION PLAN (Minor)	N/A	X	0
RECLAMATION PLAN (Major)	N/A	X	0
GEO THERMAL	N/A	X	X0
EEC DETERMINATION APPEAL	N/A	0	-

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TITLE 9

DIVISION 10: BUILDING & GRADING REGULATIONS

CHAPTER 2: GENERAL PROVISIONS

§ 91002.00	BUILDING AND SAFETY DIVISION OF THE COUNTY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
§ 91002.01	PLANNING DIRECTOR DESIGNATED AS THE BUILDING OFFICIAL
§ 91002.02	INTERFERENCE WITH BUILDING OFFICIAL
§ 91002.03	DUTIES OF THE BUILDING OFFICIAL
§ 91002.04	RIGHT OF ENTRY
§ 91002.05	DANGEROUS, INSANITARY AND UNLAWFUL CONSTRUCTION
§ 91002.06	PERMIT REQUIRED
§ 91002.07	DEMOLITION PERMIT FEE REFUND
§ 91002.08	PARCEL REQUIRED TO BE MARKED (STAKING)
§ 91002.09	TEMPORARY SANITATION FACILITIES
§ 91002.10	WASTE COLLECTION AND DISPOSAL
§ 91002.11	APPLICATIONS FOR PERMIT
§ 91002.12	COMPLIANCE WITH TITLE 9 OF THE CODIFIED ORDINANCE OF THE COUNTY OF IMPERIAL
§ 91002.13	PERMIT FEES
§ 91002.14	EMERGENCY WORK
§ 91002.15	FEE REFUNDS
§ 91002.16	EXPIRATION OF PERMITS
§ 91002.17	FEE FOR ISSUANCE OF RENEWAL OF EXPIRED PERMITS
§ 91002.18	BOARD OF APPEALS
§ 91002.19	APPEALS
§ 91002.20	APPEALS TO THE BOARD OF SUPERVISORS
§ 91002.21	NON-LIABILITY OF COUNTY OFFICERS AND EMPLOYEES
§ 91002.22	BUILDINGS AND STRUCTURES TO WHICH THIS DIVISION IS NOT APPLICABLE
§ 91002.23	LOCATION OF UNIFORM CODES / CALIFORNIA CODES
§ 91002.24	CONFLICT WITH STATE LAW
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§ 91002.26	PREFABRICATED BUILDING
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§ 91002.29	CARGO CONTAINERS
§ 91002.30	SPECIAL REQUIREMENTS FOR GEOLOGIC HAZARD ZONE
§ 91002.31	FEES
§ 91002.32	VIOLATIONS AND PENALTIES
§ 91002.33	CITATIONS
§ 91002.34	CERTIFICATE OF OCCUPANCY
§ 91002.35	VECTOR TREATMENT
§ 91002.36	SEPARATION WALLS
§ 91002.37	FOUNDATION PATES OR SILLS
§ 91002.38	INSTALLATION TEST (MH-UNIT/COMMERCIAL MODULAR)
§ 91002.39	AIR CONDITIONING REQUIREMENTS
§ 91002.40	APPLYING BUILDING CODES TO TINY HOMES

§ 91002.00 BUILDING AND SAFETY DIVISION OF THE COUNTY PLANNING & DEVELOPMENT SERVICES DEPARTMENT

There is hereby established in the County of Imperial the "BUILDING AND SAFETY DIVISION", which is a division of the Planning & Development Services Department and which shall be under the jurisdiction of the Imperial County Planning Director.

§ 91002.01 PLANNING DIRECTOR DESIGNATED AS THE BUILDING OFFICIAL

The Planning Director is hereby designated by the Board of Supervisors as the Building Official and is authorized and directed to enforce the provisions of this Division and is further charged with enforcement of the provisions contained in Part 1.5 of Division 13 of the Health and Safety Code of the State of California, and any other State or Federally mandated requirement pertaining to land use and development. The Planning Director may elect to designate a Deputy Building Official, Inspectors, and/or Assistants to assist in the duties of enforcement of the provisions contained in Part 1.5 of Division 13 of the Health and Safety Code of the State of California, and any other State or Federally mandated requirement pertaining to land use and development

§ 91002.02 INTERFERENCE WITH BUILDING OFFICIAL

No person, firm or corporation shall interfere in any way with the performance of the Building Official with respect to the enforcement of the provisions of this Division and the enforcement of the provisions contained in Part 1.5 of Division 13 of the Health and Safety Code. The Building Official shall immediately report in writing to the District Attorney and the Board of Supervisors any instance of such attempted interference.

§ 91002.03 DUTIES OF THE BUILDING OFFICIAL

The Building Official shall maintain public office hours necessary to efficiently administer the provisions of this Division, and amendments thereto, and shall perform the following duties:

- A. Require the submission of, examine and check plans and specifications, drawings, descriptions, and/or diagrams necessary to clearly show the character, kind and extent of work covered by application(s) for permit and upon approval thereof including compliance with all applicable local, state and federal laws, shall issue the requested permit, only when and if all requirements of law have been met.
- B. Keep a permanent, accurate account of all fees for permits issued and other monies collected and received as provided by this Division, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the locations or premises to which they relate.
- C. Administer and fully enforce the provisions of this Division in a manner consistent with accepted public protection practice and inspect all work authorized by any permit to assure full compliance with the provisions of this Division or amendments thereto, approving or disapproving said work in whole or in part as conditions require.
- D. Issue a "Certificate of Occupancy" for work approved by the authorized Division staff, as required.
- E. Disapprove and reject all work done or being done or material(s) used or being used which do not in all respects fully comply with the provisions of this Division and

amendments thereto.

- F. Order changes in workmanship and/or materials essential to obtain compliance with all provisions of this Division.
- G. Investigate any construction or work regulated by this Division and issue such appropriate notices and orders as provided in Section 91002.05 and elsewhere in this Division.
- H. Keep a complete record of all the essential transactions of this office.
- I. Transfer all fees collected by the Division to the proper authority provided by law to receive such funds.
- J. Issue orders and citations necessary to fully enforce the provisions of this Division, and assist in the prosecution thereof if necessary.

§ 91002.04 RIGHT OF ENTRY

The Building Official and all duly appointed assistant(s), deputies and/or inspectors, shall carry proper credentials and upon exhibiting the same, shall have the right of entry, during usual business hours to inspect any and all buildings and/or premises in the performances of their duties. Business hours are defined as the hours between 6:00 AM and 9:00 PM Monday through Saturday and 8:00 a.m. to 8:00 p.m. on Sunday.

§ 91002.05 DANGEROUS, INSANITARY AND UNLAWFUL CONSTRUCTION

- A. Whenever the Building Official receives a complaint or report or simply discovers that any construction, or work, or any building or any structure regulated by this Division is dangerous, unsafe, unsanitary, a nuisance or a menace to life, health or property or otherwise in violation of this Division, said Building Official shall investigate such report or complaint or condition. All reports or complaints filed with the Building Official shall be treated as confidential information.

If said investigation(s) results in a determination by the Building Official that there exists one or more violations of the regulations contained in this Division, he shall order the person using and/or maintaining and/or responsible for the use or maintenance thereof to discontinue such use and/or maintenance. The Building Official may order the supplier of gas or electricity to cease supplying the same when necessary to the preservation of life, health and/or property.

- B. Every order referred to herein shall be in writing addressed to the person responsible for maintaining such condition, which unless otherwise determined shall be the owner of the property upon which said condition or conditions exist.
- C. Refusal and/or failure to comply with any such notices or orders within a reasonable time after such notice or order has been presented by the Building Official pursuant to this section shall constitute a violation of this Division.
- D. Any official notice and/or order, and/or citation shall be mailed via certified, return receipt mail, or shall be personally served upon the property owner of record and any other person determined by the Building Official to receive such notice.

§ 91002.06 PERMIT REQUIRED

Unless otherwise provided herein, it shall be unlawful for any person, firm or corporation including local government to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building, structure or facility or to install, alter, move, repair, or replace or cause to be installed any plumbing, gas or drainage work or any fixtures or water heating equipment or electrical equipment within the unincorporated areas of the County of Imperial without first obtaining a permit to do such work from the Building Official., The permits described by this section are required in addition to any other permits required herein, or that may be required by any other law whether specified herein or not. A separate permit shall be obtained for the work herein described for each building or structure or facility wherein said work is to be performed. It shall also be unlawful and a misdemeanor to perform any such work in violation of this Ordinance or the technical standards of adopted Code.

§ 91002.07 DEMOLITION PERMIT FEE REFUND

Once the required demolition permit is obtained, the owner or applicant will be entitled to a refund of the paid fee, minus the \$15 of administrative fee, as incentive for compliance, if the proposed work is performed, field verified and finalized by a County Inspector before the expiration time limitation of the permit (before 180 days of its issuance, pursuant to the 2019 California Building Code Section 105.5). A County check will be mailed to verified mailing address on the permit application.

§ 91002.08 PARCEL REQUIRED TO BE MARKED (STAKED)

The Building Official may, prior to the issuance of any permit and/or prior to the first inspection, require that the corners of the lot/parcel be clearly marked or located. If in the opinion of the Building Official, the corner markers need to be located by a "surveyor", the applicant (permittee) shall be required to obtain a surveyor and have the corners properly marked.

§ 91002.09 TEMPORARY SANITATION FACILITIES

Temporary sanitation facilities shall be provided for all construction sites, at the ratio of one (1) water closet and one urinal for each twenty persons per workplace. Said facilities shall be in place prior to any inspections being performed by the Department.

EXCEPTION: Minor permits as determined by the Building Official, such as replacement of electrical services or plumbing work, may not require facilities. Furthermore, if the work site has unrestricted access to an adjacent facility with adequate restrooms temporary facilities need not be provided.

§ 91002.10 WASTE COLLECTION AND DISPOSAL

Applicants shall provide solid waste disposal bins for all construction projects. Bins shall be of sufficient capacity to meet the waste disposal needs of the project. If a construction site is being managed in a manner that would allow the off-site migration of litter, the construction site shall install appropriate temporary fencing in order to prevent off-site migration of litter.

All solid waste generated onsite shall be collected by an approved solid waste hauler that is permitted to haul solid waste. All construction wastes generated onsite shall either be transported by a permitted hauler to either an approved recycling facility or a permitted solid waste disposal facility.

§ 91002.11 APPLICATIONS FOR PERMIT

- A. All applications for permits provided herein shall be made upon the appropriate forms provided by the County of Imperial. The application shall contain at a minimum, the following information:

1. Assessor's Parcel Number
2. Legal Description
3. Name of property owner
4. Address and phone number of property owner (mailing)
5. Street address of project site
6. A description of work to be performed
7. Intended use of structure
8. Size or volume of work proposed
9. Estimated construction cost (total)
10. Name and address of contractor (if required)
11. Name and address of engineer/architect (if required)
12. Proof of Workman's Compensation (if required)

The Building Official shall require plans, specifications or drawings and such other information deemed as necessary. A detailed site plan shall be required with each permit application, except that projects needing only a basic review (ex. minor maintenance, minor repairs, etc.), as determined by the Building Official.

- B. A site plan may not be required for permits involving routine maintenance, remodeling or alteration of existing industrial or commercial facilities that are subject to Section 91002.10 (exception), as determined by the Building Official.
- C. A copy of each application filed with the Planning & Development Services Department or any other County Department pursuant to the provisions of this Division shall be transmitted to the Imperial County Assessor, and shall be open to public inspection.
- D. The plans/construction drawings submitted as part of the application shall be deemed and managed by the Department as confidential information and shall not be open to random public inspection. Technical drawings and plans shall only be available to the public under the following conditions.
1. Court order
 2. To the property owner of record upon proper I.D.
 3. To the public with a signed release from the property owner and the architect or engineer of record
 4. To the contractor of record
 5. To County Counsel.

§ 91002.12 COMPLIANCE WITH TITLE 9 OF THE CODIFIED ORDINANCES OF THE COUNTY OF IMPERIAL

The Building Official shall require that applications made pursuant to this Division contain satisfactory proof of compliance with all provisions contained in Title 9 of the Codified Ordinance of the County of Imperial.

EXCEPTION:

In lieu of the above, and at the option of the Building Official, any person, firm, or corporation, regularly employing (30 hrs./week or more) one or more person(s) qualified for the purpose of

maintenance, making installations, additions, repairs, etc. on his/her or its premises, shall file with the Building Official at least semi-annually, a report or reports, describing all such maintenance, repairs, alterations, installations or additions (Reporting may be quarterly if required by Building Official).

At the time said report is filed, such person, firm or corporation shall pay the permit fee that may be required as provided within this ordinance. All work shall have been done and installed in accordance with the provisions of this ordinance, and such work shall be subject to inspection by the Building Official to the extent necessary as determined by the Building Official.

§ 91002.13 PERMIT FEES

- A. Except as otherwise set forth in this Division, fees for each permit issued by the Building Official pursuant to this Division shall be paid -before issuance of such permit. The fees are those schedule of fees contained in the adopted code and any other fees as delineated within Title 9, Division 9.
- B. Where work for which a permit is required by this Division, other than emergency work as defined in Section 91002.13, is commenced prior to obtaining such permit, the fees required hereby shall be doubled, but the payment of such double fee shall not relieve any person from compliance with the requirements hereof or from the penalties prescribed herein.
- C. All fees collected by the Building Inspection Division shall be turned over to the County Treasurer and shall be deposited in the General Fund of Imperial County, and/or such special trust funds as approved.
- D. The following entities requiring permits under this chapter shall be exempt from payment of building permit fees, (Reference Gov. Code 6103.7) but shall not be exempt from compliance with the provisions of this Division: (shall pay actual costs that the County may incur including for contract plan checking, and special expertise consultation):
 - 1. County of Imperial
 - 2. Incorporated cities
 - 3. State/Federal Government Agencies
 - 4. No other agency or organization shall be exempt from fees.
 - 5. The Imperial Irrigation District (I.I.D.), shall be required to obtain permits for the construction of any structure for human occupancy; warehouse or storage facility. Permits shall not be required for structures used exclusively for power/water distribution (i.e. for structures having none or limited human occupancy (i.e. remote controlled power plants, sub-stations, etc.)
 - 6. Special districts shall be defined as "a service district providing a public service for a given area, such as fire protection, water and/or sewer distribution, etc. and whose governing body is duly-elected by the district constituents". Special districts shall be treated the same as Number 5 above.

7. School district(s) shall be defined as... "All facilities, structures, buildings, not used for instruction of students, classrooms, auditoriums and, under direct control of the Office of the State Architect, shall be subject to all provisions of this Division. Such facilities shall include, but not be limited to, administration facilities, bus repair shops, garages, etc." School districts shall not be exempt from fees except that they shall only be required to pay actual costs.

§ 91002.14 EMERGENCY WORK

Any person who commences any work for which a permit is required by this Division without first obtaining a permit therefore shall, if subsequently granted a permit to perform such work, pay double the permit fee fixed herein. The provisions of this subparagraph do not apply to emergency work when it is proved to the satisfaction of the Building Official that such work was urgently necessary and that it was not practical to obtain a permit therefore prior to commencement of the work. However, if the person responsible for performing said emergency work fails to obtain a permit within 72 hours after said emergency work is commenced, the double fee as herein provided shall be charged. The provisions of this subparagraph are to apply in addition to the imposition of any other penalties, sanctions, or legal remedies provided elsewhere in the Code for violations thereof.

§ 91002.15 FEE REFUNDS

- A. The recipient of a permit issued pursuant to the provisions of this Division shall be entitled to a refund in the amount of 70% of the fees he/she has actually paid for such permit if all the provisions of subparagraphs (1), (2) and (3) hereunder are complied with:
1. The permit is canceled prior to the commencement of work or construction covered by the permit and no on-site inspections have been made;
 2. A written request for a refund is received by the division not more than 180 days from the date said permit was issued, and
 3. After receipt of the permittee's application for refund, the Building Official is satisfied that said permittee is entitled to such refund.
- B. The payment of refunds as provided in paragraph (A) above shall be made in the manner provided for payment of claims against the County of Imperial. Refunds shall not be made for plan checking fees, zoning and administration cost paid pursuant to this Division.

§ 91002.16 EXPIRATION OF PERMITS

Every permit issued by the Building Official pursuant to the provisions of this Division shall expire and become null and void upon the occurrence of either of the following, except that no permit shall continue to be active for more than 36 consecutive months:

- A. If the work authorized by the permit has not been commenced within one hundred eighty (180) days from the date of issuance of said permit; or

- B. If, after the work authorized by said permit has been commenced, such work has been suspended or abandoned for a period of one hundred eighty (180) days. The 180 days shall be determined from the last inspection date on the inspection record.

§ 91002.17 FEE FOR ISSUANCE OF RENEWAL OF EXPIRED PERMIT

In the event a permit expires and becomes null and void pursuant to the provisions contained in Section 91002.15, and/or a permit is suspended or revoked by the Building Official, the following renewal fees shall be required:

- A. If a permit expires pursuant to Section 91002.15; the renewal fee shall be one half (1/2) the original total fee, EXCEPT SMI (Seismic Motion Instrumentation) building inspections (if no work has commenced) General Plan and Development Impact Fees provided:
1. The suspension described in Section 91002.14 has not exceeded one year in duration; and
 2. The plans and specifications submitted for the original permit are resubmitted without any changes made thereto.
- B. If a permit is suspended, revoked or voided by the Building Official, the renewal fee shall be twice the original fee.

§ 91002.18 BOARD OF APPEALS

There is hereby created a Board of Appeals consisting of seven (7) members, the members shall be qualified in accordance with the following:

Two (2) General Building Contractors One (1)
Plumbing Contractor
One (1) Electrical Contractor
One (1) Mechanical/Air Conditioning Contractor One (1)
Layperson
One (1) Architect or Engineer

These members shall be appointed by the Board of Supervisors. Of the members so appointed, two (2) will be appointed for a term of one (1) year; one (1) will be appointed for a term of two (2) years; two (2) will be appointed for a term of four (4) years. Upon expiration of each of these terms the succeeding terms for the original appointee or his successor will be four (4) years in length. The Building Official shall act as secretary to the Board of Appeals. The secretary shall maintain or cause to be maintained minutes of meetings and shall record all proceeding before said Board of Appeals by mechanical means.

The Board of Appeals may from time to time make written recommendations to the Board of Supervisors as to changes or additions relating to the suitability of materials and types of construction or additions relating to the specified herein.

§ 91002.19 APPEALS

Any person aggrieved by the decision of the Building Official as to a matter within the purview of this Division shall have the right to appeal such decision to the Board of Appeals in accordance with

rules and regulations relating to appeal procedures adopted by said Board of Appeals.

An appeal may be made by filing an application therefore, with the Building Official. Such application must be accompanied by a filing fee as specified in Division 9, of Four Hundred Dollars (\$400.00).

§ 91002.20 APPEALS TO BOARD OF SUPERVISORS

The decision of the Board of Appeals on any appeal shall be final, unless within ten (10) days after said decision, a written appeal to the Board of Supervisors is filed by the applicant with the Planning Department. Said appeal shall state the specific reason(s) upon which the appeal is made.

1. The written appeal clearly states the following:

- a. Name of person(s) filing appeal,
- b. Address and phone number of person(s) filing appeal,
- c. Project/decision being appealed,
- d. Reason for filing appeal,
- e. Facts, condition(s), information, error, or other specifics to warrant appeal,
- f. Prior effort(s) made to arrive at acceptable solution if any,
- g. Action being requested (i.e. deny project, approve project, modify conditions, etc.),
- h. Signature of appellant.

The appeal shall be accompanied by a filing fee of Six Hundred Fifty Dollars. Said appeal shall be heard at a scheduled public hearing by the Board of Supervisors following the date of the filing of said appeal. Notice of the time and place of said hearing shall be given to the appellant by mailing such notice to the appellant, postage prepaid, at his/her last known address at least five (5) days prior to the date set for such hearing. A copy of said notice shall also be sent to the Building Official and to all members of the Board of Appeals. The Board of Supervisors shall not consider any appeal until the appeal has first been considered by the Building Board of Appeals, and said Appeals Board has rendered a decision and filed a written report with the Board of Supervisors.

§ 91002.21 NON-LIABILITY OF COUNTY OFFICERS AND EMPLOYEES

This Division shall not be construed as imposing upon the County of Imperial, or upon any of its officers or employees any liability or responsibility for injury or damage resulting from any building, plumbing, or electrical work approved or performed hereunder.

§ 91002.22 BUILDINGS AND STRUCTURES TO WHICH THIS DIVISION IS NOT APPLICABLE

Provisions of this Division are not applicable to livestock feed pens, or livestock sun shades less than 2000 square foot (aggregate).

§ 91002.23 LOCATION OF CODES

One copy of all codes incorporated by reference or otherwise made a part of this Division shall be placed on file in the Planning & Development Services Department for examination and use by the public.

§ 91002.24 CONFLICT WITH STATE LAW

Notwithstanding any other provision of this Division, nothing herein contained shall be construed in a manner contrary to the provisions and requirements of Part 1.5 of Division 13 of the Health and

Safety Code of the State of California, or any other applicable statute, law, rule or regulation of the State of California.

§ 91002.25 OWNER CONSTRUCTION

Nothing in this Division shall be construed as prohibiting any person from doing his/her own work nor from employing any person to work on a building or structure to which the provisions of this Division apply, provided there is full compliance with Section 3800 of the California Labor Code and other applicable state/federal laws

Where state or federal laws require specific licenses or certificates, the Building Department shall not issue a permit to an owner or other person(s) unless they prove possession of such certificate or license.

The Building Official shall have final decision authority to determine whether or not an "owner/builder" qualifies to perform his/her own work and whether or not to then issue a permit. If the Department issues a permit to an owner/builder and subsequently discover that the work being done is not being performed by the owner/builder, and/or a licensed contractor with appropriate required issuance, the Department shall immediately revoke the permit. To re-issue said permit shall cost double the original or current fee.

§ 91002.26 PREFABRICATED BUILDINGS

Prefabricated buildings, which are to be located in Imperial County are subject to all provisions of this Division regulating the construction of all new buildings, unless such factory-built housing is manufactured in accordance with requirements contained in Part 6 of Division 13, Health and Safety Code (commencing with Section 19960) and Chapter 3, Title 25 of the California Code of Regulations.

§ 91002.27 SHADE STRUCTURES

No permits are required for detached shade structures constructed of cloth or any material allowed by code for nursery, storage or recreational purposes not including service systems, up to an area of 120 square feet and no more than one (1) story or 10 feet high, keeping the required setbacks.

§ 91002.28 CLOTHES WASHER AND DRYER PROTECTION

Clothes washer and dryer installed at exterior of buildings must be protected from weather by a laundry room, closet or a roof shade with a minimum of 6 feet beyond the sides and at front of the appliances.

§ 91002.29 CARGO CONTAINERS

A. For Storage

1. Portable cargo containers, and other similar structures shall be subject to building permits. Containers shall be installed on foundations designed by California Registered Engineers; use standard design for garages; or shall be set as a portable unit with the floor elevated to provide six (6) inch separation between untreated wood, or metal and the ground.
2. Cargo containers shall be located at least five (5) feet from a side or rear yard property line and ten (10) feet from another building and shall be located as required for accessory structures (i.e. incidental storage) per the zoning ordinance.
3. The area occupied by the container(s) shall comply with the maximum area limitations for storage per the zoning code.
4. Containers shall not be "stacked" on top of each other or joined in any manner.

5. The use shall be limited to incidental storage and shall not be used to store hazardous materials unless approved by the Fire Department.
6. The use shall not allow human occupancy of the containers.
7. Containers that have been factory-built with any electrical, plumbing, heating or air conditioning system, shall not be connected to a power source.
8. Containers shall be maintained in good condition and free of graffiti at all times.

B. Conversion to Building Modules

Purpose

1. The purpose of this information is to define the requirements for the conversion of cargo containers to buildings, as accepted by Imperial County Planning & Development Services (ICPDS).

Background

The use of cargo containers (also known as shipping containers) in building construction is growing due to sustainability and economic demands.

Cargo containers are manufactured all over the world to meet the standards set by the International Convention of Safe Containers (CSC). The CSC is an international agreement ratified by various countries including United States. Inspection and testing services at the point of manufacture of the cargo containers are provided by a Certified Inspection and Testing Agency (CITA) specifically authorized to certify containers by an administration signatory to the CSC. The selected CITA inspects the cargo containers at the point of manufacture, and if they pass the inspection, places a CSC safety approval placard (CSC plate) on each container and assigns a unique CSC tracking number to each container. The inspected containers will also have the selected CITA organization logo affixed to them.

A Cargo Container is also referred to as a "module". Two or more modules may be joined together to form a unit module. Cargo container conversions to building modules are limited to 2 stories in height.

1. Container Conversions Approved by California Department of Housing and Community Development as Factory-Built Housing (FBH):

Cargo container conversions reviewed and approved by the California Department of Housing and Community Development (HCD) are accepted by Imperial County Planning and Development Services (ICPDS) as approved.

Cargo Container conversions, as Factory Built Housing (FBH), are subject to the review of zoning regulations and the review of the building location on the property by the Department. Clearance approval from other County agencies shall be obtained where required.

Plan review and inspection of factory-built housing modules shall follow the guidelines specified in Information Bulletin, P/BC 2020-112, "Plan Check Guidelines for State Approved Factory-Built Housing".

Onsite modifications to those container conversions previously approved by HCD are subject to the review and approval by ICPDS if the building is not more than two (2) stories in height. Otherwise, onsite modifications are not permitted, unless approved by HCD.

2. Selection of Containers for Conversion

The cargo containers selected for conversion to buildings shall meet all of the following

requirements:

- 2.1 Container shall be general purpose container conforming to ISO1496-1 and ISO 6346 issued by the International Organization for Standardization.
- 2.2 Container shall have an affixed CSC approval placard, and it shall have been surveyed and verified by a Licensed Marine Surveyor as undamaged. The container must not have been used after the above survey. A copy of the survey and verification forms completed and signed by the Licensed Marine Surveyor shall be placed in the container and shall be made available to the in-plant and project inspectors.
- 2.3 Container shall have one of the following CITA logos affixed to it:
 - ABS (American Bureau of Shipping)
 - BV (Bureau Veritas)
 - DNV (Det Norske Veritas AS)
 - DNV GL (Det Norske Veritas Germanischer Lloyd)
 - LR (Lloyd's Register)

Containers bearing other CITA logos may be used subject to ICPDS's approval. The modular building manufacturer shall submit for ICPDS review the CITA rules and guidelines for container certification.

- Container used in a building shall be of all the same type and from the same manufacturer.
- 2.4 Container used in a building shall have been manufactured within twenty-four months of the date of ICPDS approval of the site specific building design drawings.
 - 2.5 Container shall be undamaged and have no previous repairs.
 - 2.6 Container type shall be standard dry cargo container, used for the one-way transportation of dry goods only. Container shall not have been used for transporting hazardous materials. Container shall not have been painted with paint containing lead.
 - 2.7 Manufacturer's original design/fabrication drawings for the container, with English translation, shall be provided to the project inspectors for the verification and evaluation of the as-built container material and member properties, and connection details.
 - 2.8 Copies of original design/fabrication drawings of the selected cargo container shall be included as a part of the modular building construction documents. These drawings shall be identified as "For Reference Only". The structural engineer of record shall develop as-built drawings for the cargo container showing the complete as-built information required for verification and evaluation of the unmodified cargo container. This information shall be included as a part of the modular building construction documents. The structural engineer of record shall stamp and sign the as-built drawings.

3. Structural Integrity Verification of Each Unmodified Container

Condition assessment per ASCE 41-13 Section 4.3.3 and non-destructive weld test (NOT) as an alternate means of compliance with the requirements of ASCE 41-13 Section 9.2.2.4.2 (Comprehensive testing) shall be performed in the U.S. by a laboratory accepted by ICPDS after the container is purchased by the company performing the conversion to a building and prior to the start of construction or rehabilitation on the container. The owner shall pay for the structural integrity verification of each unmodified container. The following

guidelines shall be used:

3.1 A detailed written report verifying the condition and sealed by a California licensed professional engineer shall be prepared by the laboratory documents the visual inspections, test results, and general condition assessment for each container. Copies shall be distributed to ICPDS, for review as a part of approval requirements, and the owner. A copy of the above report shall be placed in the module and shall be made available for inspections both in the plan and at the site.

4. Basic Requirements

All Portions of container buildings shall conform to all requirements of the California Building Code. The building structure, all structural elements and details shall be analyzed and justified through established engineering principles, in accordance with the current CBC requirements.

4.1 Lateral Force Resisting System:

In all cases, a continuous load path of wind and seismic forces from point of origination to foundations must be maintained and demonstrated by sections and details on the approved plans. All connections must be detailed and supported by calculations.

For the corrugated roof metal deck, the roof diaphragm capacity may be determined per the Steel Deck Institute Diaphragm Design Manual. For the floor with plywood sheathing over cold formed steel joists, the floor diaphragm capacity shall be determined per North American Standard for Cold Formed Steel Framing- Lateral Design (AISI S213-07 w/S1-09, 2012).

Adjacent modules within the unit shall be positively connected to each other such that the unit will perform as one module. Adjacent unit shall be either positively connected to each other such that the units together will perform as one structure or structurally separated with adequate gap between them such that each unit will perform as a separate structure. Diaphragms, chords, and collectors shall be designed and detailed to satisfy Section 12.10 of ASCE 7-10.

The required structural separation between the container building and any adjacent structure (elevators, stairs, etc.) shall be shown on the modular building design drawings and the approved plans.

4.2 Allowable Strength of Containers Based on Test Results:

Allowable structural strength of a **whole container** (without openings or any parts of original box removed or cut) will be taken of the strength obtained from the test results.

All test reports and results of allowable strength of containers used as building components shall be provided by an approved testing agency.

4.3 Altered Containers:

When a container is altered by cutting, removing or replacing structural elements, allowable strength derived from test results will not be acceptable unless it meets the following conditions:

- If steel frame elements are replaced, a similar or higher grade of steel shall be used. Cross section of new element must be equal to or larger than the element removed. All new welds and connections must be equal to or larger than original connections and complying with the applicable ASTM steel standards.

- When openings are made in container walls for doors, windows and others, opening must be framed with steel elements resembling or exceeding elements in the original frame and complying with the applicable ASTM steel standards.
- When the length (in the plan view) of openings in any one wall does not exceed 20% of the total length of the wall, allowable strength can be derived from test results as explained in Section 3.2 above with a reduction equal to the maximum ratio of openings in any of the four walls of the container.
- When the length of openings in any one wall exceeds 20% of the total wall length, test results cannot be used to calculate allowable strength of the containers. Structural calculations must be provided to justify allowable strength based on acceptable engineering practices. Steel grade and yielding strength of original container elements must be documented or determined by tests.
- In all cases, a continuous load path of gravity forces from the point of origination to foundation must be maintained and demonstrated by sections and details. All connection designs must be detailed and supported by calculations.
- Continuous deputy inspection shall be required for all filed welding.

4.4 Architectural Criteria:

1. Due to the fact that most of the containers have a wood floor decking that is possibly impregnated with toxic chemicals to deter rodents and other pests, such floors shall be removed and disposed of in an acceptable manner. The wood floor deck shall be replaced with steel plate, plywood or OSB in accordance with the engineer's design and in accordance with the construction type of the proposed new structure.
2. The existing structure will need to be tested for lead based paint. If any lead based paint is found in the proposed structure, it will need to be addressed in accordance with EPA lead based paint remediation guidelines for existing structures with lead based paint.

4.5 Protection Against Deterioration:

To reduce problems of deterioration, dry rot, or rust, drainage shall be provided to prevent water from ponding beneath buildings. Under-floor ventilation, under floor clearance, and the treatment of wood members in close proximity to exposed ground, shall be in accordance with the CBC 2019 Edition.

The minimum thickness of steel deck diaphragms and steel structural members permitted is 20 gage. The minimum thickness of non-structural steel roof decking and wall siding is 26 gage, protected with a durability coating. Steel members shall be given a rust inhibitive coating.

4.6 Electrical, Mechanical and Plumbing:

Electrical, mechanical and plumbing permits shall be required. All utility installations shall conform to the requirements of Title 24, Parts 3, 4 and 5.

Provisions shall be made for grounding the electrical system and equipment for each individual building and this shall be shown on the drawings.

A bonded common grounding electrode shall be provided for each metal building, exposed metal frame, ramp, stair and the electrical system per current code requirements.

A means of access shall be provided per Section 1208.1 of the California Building Code to all under-floor utilities such as electrical, mechanical and plumbing.

4.7 Permanent Foundations:

Container Buildings shall be installed on permanent foundations in compliance with the 2019 California Building Code. The distance below the underside of the plywood floor sheathing to the exposed soil shall not be less than 18 inches unless the plywood is pressure treated. In cases where the existing marine grade plywood floor sheathing is to be replaced by new plywood sheathing and the distance to the exposed soil is less than 18 inches, the new plywood shall be pressure treated and have the exposure durability classification- Exterior. All pressure treated plywood shall be verified to be harmless to humans or shall be encapsulated. Encapsulating details shall be submitted to ICPDS for review.

4.8 Roof Drainage:

The design and installation of roof drainage system shall comply with Section 1502 of the 2019 California Building Code.

4.9 Other code requirements:

Container building shall comply with the California Energy Code (Title 24, Part 6) Accessibility Regulations of the 2019 California Building Code and the 2019 California Green Code (Title 24, part 11) requirements.

Container buildings shall comply with the Fire Department regulations when applicable.

All of the above information is to be included in the final verified reports by the contractor and the County Inspector.

The permit fee for containers shall be based on the fee schedule as set forth in this ordinance Section 91002.12

§ 91002.30 SPECIAL REQUIREMENTS FOR GEOLOGIC HAZARD ZONE

In addition to the requirements of this Ordinance, any applications for a building permit for a structure used for human occupancy that lies within a special studies zone delineated by the State Geologist pursuant to Section 2621, et seq., of the Public Resources Code, shall comply with all of the provisions of Title 9, Division 15, of the Codified Ordinances of Imperial County, and State law and no building permit subject hereto shall be granted except in accordance with the provisions thereof.

§ 91002.31 FEES

Each applicant for a permit that is subject to the provisions of Section 91002.26 shall, pay the fees provided for elsewhere in this Division.

§ 91002.32 VIOLATIONS AND PENALTIES

Any person, firm, or corporation violating any provision of this Division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed \$1000.00 or by imprisonment in County Jail for not to exceed six months, or by both fine and imprisonment.

Each separate day or any portion thereof during which any violation of this Code occurs or continues, shall constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

§ 91002.33 CITATION(S)

The Building Official or his designee(s) having the authority under Division 13 to issue citations, against any person, firm or corporation that is in violation of any provision of this ordinance and/or any section, article, or regulation of the adopted codes, may issue a citation to effect compliance with all applicable laws, ordinances, and/or regulations.

The citation shall be issued only by duly qualified personnel and upon the format approved by the Courts.

§ 91002.34 CERTIFICATE OF OCCUPANCY

No vacant land in any zone established under the provisions of this Division shall hereafter be occupied or used, except for agricultural uses, and no building hereafter erected, structurally altered, or moved in any such zone shall be occupied or used until a Certificate of Occupancy shall have been issued by the County Building Official.

- A. Certificates of Occupancy for a new building, or the enlargement, alterations or moving of an existing building, shall be applied for and shall be issued within ten (10) days after the erection or alteration, subject to all Agencies signing off of such building shall have been completed in conformity with the provisions of this and other pertinent laws of the County. A Certificate of Occupancy shall not be required for any of the following:
 - 1. Any buildings not intended primarily for occupancy by human beings.
 - 2. Any buildings designed and constructed for use as a dwelling by not more than two (2) families.
 - 3. Any building designed and constructed for use in housing poultry, livestock, hay, grain, or farm implements and supplies.
- B. Certificates of Occupancy for the use of vacant land, or the change in the use of land as herein provided, shall be applied for before any such land shall be occupied or used for any purpose except that of grazing, tilling the soil and the growing therein of farm, garden or orchard products, and a Certificate of Occupancy shall be issued within ten (10) days after the application has been made, provided such use is in conformity with the provisions of this and other pertinent laws of the County.
- C. Certificates of Occupancy shall state that the building, or proposed use of a building or land, complies with the provisions of this Title, or that a variance or a conditional use permit has been issued for this proposed use. A record of all certificates shall be kept on file in the office of the County Building Official and copies shall be furnished on request, to any person having a propriety or tenancy interest in the building or land affected.
- D. No fee shall be charged for any original Final Certificate. For an original temporary certificate, a \$150 fee shall be charged. For copies of any original Certificates a \$10 fee shall be charged.
- E. Certificates of Occupancy for non-conforming uses existing at the time of the passage of this Title or any amendment thereto may be issued by the County Building Official upon request, and the Certificate shall state that the use is a non-conforming use existing prior to

the adoption of this Title and therefore may be continued as provided in this Title.

§ 91002.35 VECTOR TREATMENT

The County of Imperial has noted significant structural damage in wood frame buildings due to "termite" infestation. This has the potential to adversely affect the housing stock in the County and result in added housing costs. It is therefore required that all new construction, including additions to existing structures be "pre-treated" for termite control. Proof of pre-treatment shall be provided prior to framing inspection.

§ 91002.34 SEPARATION WALLS

Separation walls between "R" occupancies and U" occupancies shall be 1 hour rated.

§ 91002.36 FOUNDATION PLATES OR SILLS

Foundation plates or sills resting on concrete or masonry foundations shall comply with Section 2304.3.1 of the California Building Code. Foundations plates or sills shall be bolted or anchored to the foundation with not less than ½ inch diameter (12.7 mm) steel bolts or approved anchors spaced to provide equivalent anchorages the steel bolts or anchoring epoxy formulated and tested in accordance with ICC-ES appropriate code listings. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 6 feet (1829 mm) apart. There shall be a minimum of two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of each piece. A properly sized nut and washer shall be tightened on each bolt to the plate (0.229 inch x 3 inch x 3 inch). Except that such anchors shall be distributed along the length of the braced wall line. Other anchorage device having equivalent capacity are permitted.

§ 91002.37 INSTALLATION TEST (MH-UNIT/COMMERCIAL MODULAR)

At the discretion of the Building Official, the installation provisions that apply to MH-units, as required by Title 25, California Code of Regulations, Division 1, Chapter 2, Article 7, Section 1362, shall apply equally to commercial modular.

Installation tests (as printed in Section 1362) are as follows:

- a) The potable water distribution system of the MH-unit and the supply connection shall show no evidence of leakage under normal operating pressures. If water at normal operating pressure is not available, the water distribution system shall be tested by a fifty (50) psi air pressure test for a period of not less than fifteen (15) minutes without leaking.
- b) The MH-unit drainage piping system shall be connected to the lot drain inlet, and tested by allowing water to flow into all fixtures, and receptors, including the clothes washer standpipe, for a period of three (3) minutes. If water under pressure is not available, the drainage piping system shall be tested by letting at least three (3) gallons of water into each fixture and receptor. There shall be no visible evidence of leaks.
- c) The MH-unit fuel gas piping system shall be tested before it is connected to the lot gas outlet. The gas piping system shall be subjected to a pressure test with all appliance shut-off valves, except those ahead of fuel gas cooking appliances, in the open position. Appliance shut-off valves ahead of fuel gas cooking appliances may be closed.

(1) The test shall consist of air pressure at not less than ten (10) inches nor more than

a maximum of fourteen (14) inches water column. (Six (6) ounces to a maximum eight (8) ounces). The system shall be isolated from the air pressure source and maintain this pressure for not less than two (2) minutes without perceptible leakage. Upon satisfactory completion of the test, if the appliance valves ahead of fuel gas cooking appliances have been shut off, they shall be opened and the gas cooking appliance connectors tested with soapy water or bubble solution while under the pressure remaining in the piping system. Solutions used for testing for leakage shall not contain corrosive chemicals. Pressures shall be measured with either a manometer, slope gauge, or gauge calibrated in either water inches or psi with increments of either one-tenth (1/10) inch or one-tenth (1/10) ounce, as applicable.

NOTE: The fuel-gas piping system shall not be over-pressurized. Pressurization beyond the maximum specified may result in damage to valves, regulators, appliances, etc.

- (2) Gas appliance vents shall be inspected to insure that they have not been dislodged in transit and are securely connected to the appliance.
- d) The electrical wiring and power supply feeder assembly of the MH-unit shall be tested for continuity and grounding. The electrical wiring system shall not be energized during the test. An MH-unit equipped with a power supply cord shall not be connected to the lot service equipment. An MH-unit equipped with a feeder assembly shall have the flexible metal conduit of the feeder assembly connected to the lot service equipment; however, the supply conductors, including the neutral conductor, shall not be connected.
 - (1) The continuity test shall be made with all interior branch circuit switches or circuit breakers and all switches controlling individual outlets, fixtures and appliances in the "on" position. The test shall be made by connecting one lead of the test instrument to the MH-unit grounding conductor at the point of supply to the feeder assembly, and applying the other lead to each of the supply conductors, including the neutral conductor. There shall be no evidence of any connection between any of the supply conductors and the grounding conductor. In addition, all noncurrent-carrying metal parts of electrical equipment, including fixtures and appliances, shall be tested to determine continuity between such equipment and the equipment grounding conductor.
 - (2) Upon completion of the continuity test, the power supply cord or feeder assembly shall be connected at the lot service equipment. A further continuity test shall then be made between the grounding electrode and the chassis of the MH-unit.
 - (3) If the final electrical connection has been approved by the enforcement agency and electrical energy is available at the lot equipment, a polarity test shall be conducted with the MH-unit energized.
- e) When an MH-unit consists of two (2) or more sections, all utility connections from one section to another shall be visually inspected and included in the tests.
- f) Upon approval of the installation and satisfactory completion of the gas and electrical tests, the lot equipment shall be approved for service connection.
- g) When installed, fire sprinkler systems shall be hydrostatically tested in accordance with Title 25, Chapter 3, Section 4320.

§ 91002.38 AIR CONDITIONING REQUIREMENTS

All habitable structures (conventional or manufactured) on property that is located within the unincorporated areas of the County of Imperial shall include a functional, heating and air-conditioning system that will maintain indoor temperatures of the structure at a minimum temperature of 68°F for heating and a maximum 75°F for cooling.

§ 91002.39 APPLYING BUILDING CODES TO TINY HOMES

INTRODUCTION

For the most part, a tiny home is a single-family dwelling on a very small scale. The California Residential Code 2019 Edition defines a tiny home as a dwelling that is 400 square feet or less in floor area, excluding lofts.

Tiny homes are dwellings. A dwelling is considered by building codes to be used as a non-transient occupancy for the purposes of living, which includes sleeping and cooking. Dwellings are not for transient use, where occupants unfamiliar with the building will stay temporarily, such as a hotel room.

Dwellings are therefore generally subjected to the same building code regulations as any other home.

SCOPE OF BUILDING CODES

Tiny Homes are built in different ways, and it is important to identify which types of tiny homes fall within the scope and application of building codes.

Types of tiny homes include the following:

- Recreational vehicles
- Manufactured Homes (Park Models)
- Modular dwellings
- Site-built dwellings

Building codes will apply only to tiny homes in the form of modular dwelling and site-built dwellings. Those taking the form of recreational vehicles and manufactured homes are not regulated by building codes but are under the regulation of park models and recreation vehicles standard. (See Div. 12, Ch. 2)

For the purposes of these guidelines, a tiny home is intended for permanent and non-transitory occupancy or residency. Also for the purposes of these guidelines, tiny homes are not attached to multiple units and would not be configured or used as a bunkhouse.

Modular Dwellings

Modular dwellings are built in whole or in part at a factory, and then taken to a site for installation. These types of dwellings are not built or labeled to the HUD standards for manufactured homes nor labeled as such. Modular dwellings are regulated by building codes.

Site-Built Dwellings

If a tiny home is a building used for occupancy that meets these definitions and is excluded by being considered an RV, manufactured home, mobile home, or park model, then the building code

applies.

CODE APPLICATION

There are two nationally recognized, voluntary building construction codes promulgated in the United States that regulate the construction of single-family dwellings: NFPA 5000, Building Construction and Safety Code, promulgated by the National Fire Protection Association (NFPA), and the international Building Code (IBC) promulgated by the International Code Council (ICC). Generally, the IBC establishes regulations for homes in the International Residential Code (IRC). Provisions in these documents for their 2018 editions are the base for our California Code of Regulations Title 24.

Tiny homes are separate buildings intended for non-transient living purposes. The occupancy that building codes establish for residential living is a dwelling unit: in NFPA 5000. The occupancy is a one-and two-family dwelling; in the IBC/IRC it is an R-3 occupancy.

Tiny homes are single-family dwellings, and under this occupancy description the building code will regulate them. A dwelling is defined as a building provided with permanent provisions for sleeping, cooking, eating, living, and sanitation.

Tiny homes are not accessory structures, as considered by building codes. A dwelling, no matter what the size, is a primary use and a permanent, habitable occupancy.

Following are building code-related issues that may affect the design and construction of tiny homes. This is not intended to be a complete code analysis. These are the general requirements that have the greatest effect, and these citations do not necessarily reflect all the exceptions, allowance, and trade-offs established by the codes.

- Room size and dimensions
- Mezzanines/Lofts
- Headroom
- Means of escape
- Egress Width
- Stairs
- Automatic Fire Sprinklers
- Smoke Alarms
- Carbon Monoxide Alarms
- Sanitation
- Light and Ventilation
- Electrical
- Accessibility
- Plumbing
- Mechanical
- Energy Compliance

CONCLUSION

Building codes apply to tiny homes if they are constructed in ways that fall within the scope of building codes. Recreational vehicles and manufactured homes do not fall within the scope of building codes.

Consideration should be given to the design elements as an equivalent alternate or alternate design as approved by the AHJ.

TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 2: ABATEMENT OF NUISANCES

§ 91302.00	PURPOSE AND DEFINITIONS
§ 91302.01	NUISANCE DEFINED
§ 91302.02	SCOPE OF CHAPTER
§ 91302.03	SUMMARY ABATEMENT
§ 91302.04	NUISANCE DECLARED
§ 91302.05	ADMINISTRATIVE ABATEMENT- PROCEDURE
§ 91302.06	JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS IMPOSING FINES OR PENALTIES

§ 91302.00 PURPOSE AND DEFINITIONS

- A. This chapter is intended to provide an administrative procedure for the abatement of any public nuisance. A violation of any applicable state law or provision of the county land use ordinances enforced by the county constitutes a nuisance. It is intended to provide a uniform procedure for notification, right of appeal and assessment of costs and collection thereof for the abatement of public nuisances. The administrative abatement procedure herein is intended to provide due process to all those required to abate a public nuisance.
- B. "Authorized person" means hearing officer, board, commission, agency or department head, or their respective designee, or any other person authorized by the board of supervisors to preside over the administrative process and procedure.
- C. "Responsible party" means any person or legal entity that has a possessory, equitable or beneficial interest in the subject property.
- D. "Written notice" means a written document which informs a responsible party of the time, date and place for a hearing, the nature of the penalty and/or the corrective action required of that responsible party and the code and/or ordinance section(s) applicable to the proceeding.
- E. "Hearing" means both the initial hearing and any and all subsequent appeals.

§ 91302.01 NUISANCE DEFINED

Nuisance, as defined in civil code section 3479, is anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street or highway.

Any condition caused, maintained or permitted to exist in violation of any of the provisions of the County Land Use Ordinances shall be and the same is hereby declared unlawful and a public nuisance that may be abated consistent with the procedures provided for in this ordinance, or in any other manner provided by law.

§ 91302.02 SCOPE OF CHAPTER

Whenever a public nuisance is declared, it may be abated in accordance with the procedures provided in this chapter and this chapter shall be applicable to all administrative procedures regarding the denial, suspension or revocation of a permit, license or entitlement. Nothing in this chapter shall be construed to limit the right and duty of any enforcement officer to take immediate action to preserve or protect public health or safety. The procedures set forth in this chapter are not exclusive but are cumulative to all other civil and criminal remedies provided by law. The seeking of other remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter.

§ **91302.03 SUMMARY ABATEMENT**

Pursuant to government code section 25845(a), the enforcement officer is authorized to summarily abate public nuisances determined by the enforcement officer to constitute an immediate threat to public health or safety. The nuisance may be summarily abated by any reasonable means and without notice or hearing when immediate action is necessary to protect against the existence of a dangerous condition or imminent threat to life or safety on public or private property. Summary abatement actions shall not be subject to the notice and hearing requirements of this chapter. Summary abatement actions may be initiated after commencement of proceedings pursuant to this chapter, if immediate action becomes necessary to preserve or protect the public health or safety. Summary abatement shall be limited to actions that are reasonably necessary to immediately remove the threat. In the event a public nuisance is summarily abated, the enforcement officer may keep an account of the cost of abatement and such costs shall be charged to the responsible party. If the bill is not paid within 15 days from the date of mailing, the enforcement officer may proceed to obtain a special assessment and lien against the property in accordance with the procedures set forth in this code.

§ **91302.04 NUISANCE DECLARED**

An enforcement officer may declare a public nuisance for any reason specified in any county ordinance. Upon a public nuisance being declared, the enforcement officer shall issue a notice and order to abate substantially in the following form:

NOTICE AND ORDER TO ABATE

NOTICE IS HEREBY GIVEN THAT _____ [specify the condition constituting the nuisance] is in violation of Section ____ [insert section number] of the County of Imperial Codified Ordinances [or other applicable statute]. The violation is declared a public nuisance. The public nuisance is on property located at _____ [insert address or other legal property description].

YOU ARE HEREBY ORDERED TO ABATE SAID PUBLIC NUISANCE within ____ (____) [insert a reasonable number of days (not less than ten)] consecutive calendar days from the issuance of this order. The issuance date is specified below. You may abate the nuisance by _____ [insert desired action which, if taken, will adequately remedy the situation (for example, removal, demolition or repair)]. The nuisance must be abated by ____ [insert date certain]. If you fail to abate the public nuisance by the above date, the county may order its abatement by public employees, private contractor or other means, and the cost of said abatement may be levied and assessed against the property as a special assessment lien or billed directly to the property owner.

YOU MAY APPEAL FROM THIS ORDER OF ABATEMENT but any such appeal must be brought prior to the expiration of the number of days specified above for completion of abatement. The appeal must be in writing; specify the reasons for the appeal; contain your name, address and telephone number; be accompanied by an appeal fee of _____ dollars (\$____); and be submitted to the Director of Planning and Development Services at the following address:

801 West Main Street
El Centro, CA 92243

ISSUANCE DATE: _____ [insert date that the county issues the notice]

(Name, address and telephone number of officer issuing this notice)

§ **91302.05 ADMINISTRATIVE ABATEMENT – PROCEDURE**

These procedures shall be followed whenever it is necessary to correct or remove the conditions giving rise to a nuisance.

A. FIRST NOTICE

If the enforcement officer determines that public or private property or any portion thereof is being maintained or permitted to exist in a manner prohibited by the provisions of any county land use ordinance, the enforcement officer shall give written notice requiring abatement of the condition to all responsible parties concerned. The notice shall specify the following:

1. The manner in which the conditions on the property violate the provisions of county land use ordinances or other ordinances;
2. The corrective actions required to abate the violation;
3. Notice that failure to bring the property into compliance with the county land use ordinances or other ordinances could subject the owner and other responsible parties to civil and criminal penalties; and
4. Notice that failure to bring the property into compliance with county land use ordinances or other ordinances could result in the imposition of a lien on the property for costs related to the enforcement of the ordinances and abatement of the conditions.

The failure of the notice to set forth all required contents shall not affect the validity of the proceedings.

B. MANNER OF GIVING NOTICE

The enforcement officer may give personal notice. Alternatively, the enforcement officer shall send a copy of the notice by registered or certified mail, postage prepaid, return receipt requested, to the owner of the property (as such person's name and address appears on the county equalized assessment roll) and to each mortgagee or beneficiary under any recorded deed of trust or holder of any recorded lease and to the holder of any other asset or interest in the property, at the last known address of such interest holders. Service by mail shall be deemed complete at the time of deposit in the mail. In the event that the enforcement officer cannot give notice in the manner provided above, the enforcement officer shall post a copy of the notice in a conspicuous place on the property. The failure of any owner or other person, including any mortgagee or beneficiary or lease holder as mentioned above, to receive such notice shall not affect the validity of the proceedings.

C. SECOND NOTICE

If the first notice is not complied with in a timely manner, a second notice shall be given. Such second notice shall be sent to all responsible parties. The notice shall be dated and shall direct all responsible parties to appear at a hearing before the planning commission at a stated date, time and place to show cause why the conditions on the property should not be abated. The hearing shall be set not less than 15 days after service of the second notice. Prior to the hearing, a copy of the first and second notices and proof of service shall be filed with the planning commission. The failure of any responsible party to receive such notice shall not affect the validity of the proceedings.

D. HEARING

At the time fixed in the second notice, the Planning Commission shall receive evidence regarding the conditions of the property or any other relevant matter presented by any interested person. In conducting the hearing the planning commission shall not be limited by the technical rules of evidence. Upon the conclusion of the hearing, the planning commission shall make its decision and it may declare the conditions on the property or the property to be in violation of county land use ordinances or other ordinances and, therefore, a public nuisance. The decision shall be mailed to all parties concerned or be posted on the property in the same manner as the first notice. If the planning commission determines there is a public nuisance, it shall direct the responsible parties to abate the conditions on the property within 30 days after service of the decision. If the responsible parties fail to abate the conditions on the property within such time, the county may abate those conditions. If the county abates the conditions, after a hearing, the costs of abatement shall be a lien on the property which may be collected by an assessment against the property pursuant to government code

sections 25845 and 54988 or by any other means provided by law. The planning commission may grant any extension of time to abate such conditions that it may deem justifiable upon good cause being shown.

E. APPEAL TO BOARD OF SUPERVISORS

The decision of the Planning Commission shall be final unless appealed to the board of supervisors within 10 days of the date of the planning commission's decision.

F. TIME TO OBJECT

Unless a responsible party files a writ in a court of competent jurisdiction within 90 days after the date of service of the Board of Supervisors' decision, all objections to the proceedings and decision shall be deemed to have been waived.

G. TIME TO BRING ACTION – ADMINISTRATIVE FILES OR PENALTIES

A final decision shall be issued by the Board of Supervisors or other authorized person. The date of mailing of the final decision to the party by first class mail, with certificate of service attached, shall constitute the date of the exhaustion of administrative remedies. A party shall be advised that, pursuant to code of civil procedure section 1094.6, it has 90 days from that date in which to file for a writ of mandamus or other applicable judicial review, except that if the determination is made as to a decision imposing an administrative penalty, fine or charge pursuant to ordinance, the time to appeal to the superior court is limited to 20 days pursuant to government code section 53069.4. Failure to file for judicial review within the applicable time limit makes the final decision nonappealable and confirmed. Until a timely request for judicial review is filed, enforcement of the final decision may proceed in due course.

H. JURISDICTION TO ABATE

Once 95 days have passed after service of the decision of the board of supervisors, or 25 days have passed in the case of administrative penalty, fine or charge, the county shall have jurisdiction to abate such conditions, unless the Board of Supervisors grants an extension of time.

I. STATEMENT OF EXPENSE/NOTICE OF INTENT TO LIEN

The county shall mail, by certified and regular mail, and shall cause to be posted conspicuously on the property, a verified statement showing the abatement costs, together with a notice of the date, time, and place that the hearing on the statement shall be heard by the Board of Supervisors; service shall be in accordance with code of civil procedure sections 415.10, 415.20, 415.30 or 415.40 if the responsible party resides outside the state of California. The statement of expense shall include a notice that failure to pay the expenses shall result in a lien upon the property. The date for such hearing shall be not less than 50 days after the posting and mailing of the statement of expense. A copy of the statement of expense and notice shall be mailed to all responsible parties in the manner as it prescribed for the first notice. All supporting documentation and proofs of service shall be filed with the clerk of the board prior to any hearing.

J. HEARING ON STATEMENT OF EXPENSE

At the time fixed for the hearing on the statement of expense, the board of supervisors shall consider the statement of expense, together with any objections that may be raised by the responsible parties. The board of supervisors may make any such revision, correction or modification in the statement of expense as it may deem just and thereafter shall render its decision on the statement of expense. The board of supervisor's decision on the statement and all protests and objections that may be made shall be final and conclusive.

K. PAYMENT-LIEN

If payment of the amount due established in the statement of expense is not made within 10 days after the board of supervisor's decision, the county may transmit the statement of expense and the board of supervisor's decision to the county auditor-controller. The auditor-controller shall place the amount on the assessment roll as a special assessment on the property to be paid with county taxes, unless sooner paid. A notice of lien, including the following information, may be recorded with the county clerk/recorder:

1. A description of the real property affected, including the assessor's parcel number;
2. A summary of the action taken to abate the subject condition;
3. The date upon which abatement of the nuisance was ordered by the board of supervisors;
4. The date the abatement was complete; and
5. The amount of the lien claimed by the county.

L. RELEASE OF LIEN

Upon payment of the abatement costs in full, or upon order of the board of supervisors, if a lien has been recorded, the county shall execute and record a release of the lien on the property. If an assessment has been placed on the assessment roll and is thereafter paid to the county, the auditor-controller shall cancel the assessment on the roll.

M. INCURRING EXPENSE

The county is authorized to pay the cost of a title search to determine the responsible parties, mailing expense and the expense of all work done or caused to be done by the county in the abatement of the subject condition. All of such costs shall be included in the statement of expense.

N. CONTINUANCES – DECISION

The board of supervisors may continue any hearing for any amount of time. Upon the conclusion of the hearing, the board of supervisors shall render its decision within 15.

O. OTHER REMEDIES

The provisions of this chapter are to be construed as an added remedy of abatement and not in derogation of any other actions, proceedings or remedies otherwise provided by law.

§ 91302.06 JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS IMPOSING FINES OR PENALTIES

A. TWENTY DAY PERIOD TO APPEAL FINE OR PENALTY

Notwithstanding the provisions of sections 1094.5 or 1094.6 of the code of civil procedure, within 20 days after service of the final administrative order or decision of the board of supervisors or other authorized person is made, a responsible party contesting that final administrative order or decision may seek review by filing an appeal to be heard by the superior court, where the same shall be heard de novo, except that the contents of the file in the case shall be received in evidence. A proceeding under this section is a limited civil case. Copies of all notices and decisions shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the county by the responsible party contesting the final administrative order or decision of the board of supervisors.

B. FEE FOR APPEAL

The fee for filing the notice of appeal shall be as specified in section 70615 of the government code. The court shall request that the file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the fee regardless of the outcome of the appeal. If the

court finds in favor of the responsible party contesting the final administrative order or decision by the board of supervisors, the amount of the fee shall be reimbursed by the county. Any deposit of the fine or penalty shall be refunded by the county in accordance with the judgment of the court.

C. CONDUCT OF APPEAL

The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

D. NO APPEAL – ORDER CONFIRMED

If a notice of appeal of the county's final administrative order or decision is not filed within the period set forth in this section, the order or decision shall be deemed confirmed.

E. COLLECTION OF FINE

If the fine or penalty has not been deposited and the decision of the court is against the responsible party contesting the final administrative order or decision by the board of supervisors, the county may proceed to collect the penalty pursuant to the procedures set forth herein.

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