

Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Definitions and General Rules of Construction**
- 1.02 Code Adoption**
- 1.03 City Logotype and Seal**
- 1.04 Public Posting Places**
- 1.05 Local Claims**
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Chapter 01

DEFINITIONS AND GENERAL RULES OF CONSTRUCTION

Sections:

1.01.010 **Definitions.**

1.01.020 **General Rules of Construction and Interpretation.**

1.01.010 **Definitions.**

For the purpose of this Code, the following words and phrases shall have the following meanings unless the context indicates or requires a different meaning.

“Appeals Board” means the City Council or any City committee, board, or commission empowered to interpret and enforce questions of the subject matter which is the basis of an administrative decision. The Appeals Board may be appointed by the City Council by resolution.

“City” or “the City” means the City of Ceres, California, a municipal corporation, and all of the territory within its boundaries.

“Code,” “the Code,” or “this Code” shall mean the code of the City of Ceres, California, also known as the Ceres Municipal Code.

“Council” or “City Council” shall mean the City Council of the City of Ceres.

“County,” “the County,” or “this County” shall mean the county of Stanislaus of the State of California.

“Operate” or “Engage In” includes carry on, keep, conduct, maintain, or cause to be kept or maintained.

“Owner” when pertaining to a building or land includes any part owner, joint owner, tenant in common, or joint tenant of the whole or part of such building or land.

“Person” shall mean any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust, or the manager, lessee, agent, servant, officer, or employee of any of them.

“State” shall mean the State of California.

“Tenant” or “Occupant” when pertaining to a building or land includes any person who occupies the whole or part of such building or land, whether alone or with others.

1.01.020 General Rules of Construction and Interpretation.

A. In the construction and interpretation of this Code, the following rules shall be observed unless the rules would be inconsistent with the manifest intent of the City Council or the context requires otherwise:

1. A citation to any federal, state, or local law, including, but not limited to, a constitutional provision, statute, charter, code, rule, or regulation, shall be construed to refer to that law as it exists at the time the citation is adopted and as it is subsequently amended or renumbered.

2. “May” is permissive and “shall” is mandatory.

3. All words in the present tense shall include the future tense.

4. All words in the singular number shall include the plural number, and all words in the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise.

5. Designation of the form of any gender includes the masculine, the feminine, and the neutral genders.

6. Whenever certain hours are named in the Code, they shall mean Pacific Standard Time or Daylight Savings Time as may be in current use in the City.

B. All words and phrases shall be construed and understood according to their plain, or ordinary and usual meaning. Technical words and phrase as may have a peculiar and appropriate meaning and shall be construed and understood according to such peculiar and appropriate meaning.

C. When an act is required by an ordinance, such action shall be construed to be performed by a principal as well as any agent of the principal.

Chapter 02

CODE ADOPTION

Sections:

- 1.02.010** Adoption of the Ceres Municipal Code.
- 1.02.020** Continuing Effect of Prior Codes.
- 1.02.030** Title, Citation, and Reference.
- 1.02.040** Reference Applies to Amendments.
- 1.02.050** Effect on Matters of Record—Reference to Ordinances.
- 1.02.060** Codification Authority.
- 1.02.070** Title, Chapter, and Section Headings.
- 1.02.080** Reference to Specific Ordinances.
- 1.02.090** Effect of Code on Past Actions and Obligations.
- 1.02.100** Severability.

1.02.010 Adoption of the Ceres Municipal Code.

The Ceres Municipal Code is adopted as a comprehensive and codified ordinance of the City.

1.02.020 Continuing Effect of Prior Codes.

Except as otherwise provided by this Code or by ordinance, the 1970 Code of the City of Ceres, previously adopted as the official code of the City, shall remain in full force and effect. In the event of any conflict between the provisions of the 1970 Code and this Code, the provisions of this Code shall apply. The provisions of this Code, insofar as they are the same as those of the 1970 Code or other ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof, and not as new enactments.

1.02.030 Title, Citation, and Reference.

This Code shall be known as the "Ceres Municipal Code" and it shall be sufficient to refer to the Code in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall also be sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any part or portion thereof as an addition to, amendment to, correction of, or repeal of the "Ceres Municipal Code." Further reference may be had to the titles, chapters, sections, and subsections of the "Ceres Municipal Code" and such reference shall apply to that numbered title, chapter, section, or subsection as it appears in that Code.

1.02.040 Reference Applies to Amendments.

Whenever a reference is made to the Code, to any portion of the Code, or to any City ordinance, that reference shall apply to all current or subsequently adopted amendments, corrections and additions.

1.02.050 Effect on Matters of Record–Reference to Ordinances.

The provisions of this Code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances designated by name or number and included within the 1974 Code. Such reference shall be construed to apply to the corresponding provisions contained within this Code.

1.02.060 Codification Authority.

This Code consists of all of the regulatory and penal ordinances and certain of the administrative ordinances codified pursuant to Government Code sections 50022.1 through 50022.10, inclusive.

1.02.070 Title, Chapter, and Section Headings.

Title, chapter, and section headings are contained in this Code for the purpose of reference, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, or section of this Code.

1.02.080 Reference to Specific Ordinances.

The provisions of this Code shall not in any manner affect deposits or other matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within this Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

1.02.090 Effect of Code on Past Actions and Obligations.

Neither the adoption of the Code nor the repeal or amendment of any City ordinance or any part of any City ordinance shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at the effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

1.02.100 Severability.

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

Chapter 03

CITY LOGOTYPE AND SEAL

Sections:

1.03.010 Establishment and Use.

1.03.010 Establishment and Use.

A. The City Council may establish or create, from time to time, a City logotype or insignia. The City claims all rights and title, including copyrights or trademark, to such City logotype or insignia, and claims every right to control the use of any such City logotype or insignia.

B. The City name, seal, logotype, or insignia shall not be used by any person without the express prior written permission of the City Manager. The City Manager shall not, permit the City name, seal, logotype, or insignia to be used for any for-profit or political purpose. The City Council may permit the City name, seal, logotype, or insignia to be used for a for-profit purpose by adoption of a written resolution.

Chapter 04

PUBLIC POSTING PLACES

Sections:

1.04.010 Designated Places.

1.04.020 Unauthorized Posting – Defacing Prohibited.

1.04.010 Designated Places.

For the purpose of posting notices as required by law, the three (3) public posting places in and for the City shall be and are located as follows:

A. City Hall exterior bulletin board
2720 Second Street;

B. Council chambers exterior bulletin board
2701 Fourth Street; and

C. City Hall exterior bulletin board
2220 Magnolia Street.

1.04.020 Unauthorized Posting – Defacing Prohibited.

The public posting places set forth in section 1.04.010 of this Code shall be designated and known as “City Bulletin Boards” and any person not authorized by the ordinances of the City or the acts of the City Council who places any bill, advertisement, card, poster or other document on the City Bulletin Boards, whether written or printed, or tears off, mutilates, removes, or defaces any document, notice, poster or other written or printed instrument, which has been placed on the City Bulletin Boards, or any of them, by a City officer or other person authorized to do so, or who defaces, destroys or mutilates such boards, or any of them, shall be guilty of an infraction under the Code.

Chapter 05

LOCAL CLAIMS

Sections:

- 1.05.010** Authority.
- 1.05.020** Claims Against the City.
- 1.05.030** Form of Claim.
- 1.05.040** Claim Prerequisite to Suit.
- 1.05.050** Suit.

1.05.010 Authority.

This Chapter is enacted pursuant to Government Code section 935.

1.05.020 Claims Against the City.

To the extent that the law of the State of California, including but not limited to that portion of the “Government Claims Act” (also known as the “Tort Claims Act” and referred to in this section as “the Act,” Government Code § 900 et seq.) dealing with claims, sets forth a procedure applicable to claims against local public entities (including the City) and the officers and employees of such local public entities, such State laws shall govern the requirement for, and the procedure for disposing of, ordinances of the City.

A. All claims against the City for money or damages, including those claims exempted by Government Code section 905 from the claims presentation requirements, and which are not governed by any other statutes or regulations expressly relating thereto, shall be presented in the manner prescribed by Government Code sections 910 through 915.4, inclusive, within the time limitations specified in Government Code section 911.2. All such claims shall be subject to the provisions of Government Code section 945.4 which bars the filing of a lawsuit where a claim has not been properly presented and filed.

B. To the extent that a person is not obligated to file a claim by the terms of the Act or other State law, no person shall bring any action, whether in law or equity, for the payment of any money by the City, its officers or employees, for any reason or upon any cause of action whatsoever without first having presented a claim pursuant to this section. It is the intent of this section that, to the fullest extent permitted by law, all actions against the City for money, whether for damages or otherwise, shall be preceded by an administrative claim.

C. Except as otherwise provided in this section, the required content of the claims required by this section, the time period in which to present such a claim and the procedure for payment of claims, rejection of claims, and notice of insufficiency of claims shall be governed by the Act.

D. Claims for refunds of taxes, penalties or costs (referred to jointly as “taxes” for purposes of this subsection) shall be made as provided in subsections B and C of this section, except that:

1. Claims for refunds of taxes may be made in the following circumstances:
 - a. Where the taxes were paid more than once, or erroneously or illegally collected.
 - b. Where the taxes were paid upon an assessment in excess of the actual cash value of the assessed property, by reason of the assessor's clerical error or excessive or improper assessments attributable to erroneous property information supplied by the assessor.
 - c. Where the taxes are paid on an assessment of improvements when the improvements did not exist on the lien date.
2. Claims for refunds of taxes must be filed with the City Clerk not later than one (1) year after making the payment sought to be refunded. All claims shall be verified by the claimant under penalty of perjury.

Claims for refunds of taxes may be made only by a person who has paid the tax alleged to be improper.

1.05.030 Form of Claim.

All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor, or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this section. In addition, all claims shall contain the information required by Government Code section 910.

1.05.040 Claim Prerequisite to Suit.

In accordance with Government Code sections 935(b) and 945.6, all claims shall be presented as provided in this Section and acted upon by the City Council prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of this chapter.

1.05.050 Suit.

Any action brought against the City upon any claim or demand shall conform to the requirements of Government Code sections 940-949. Any action brought against any employee of the City shall conform with the requirements of Government Code sections 950-951.

The ordinance codified in this Chapter shall take effect and be in full force thirty (30) days from and after its adoption. Within fifteen (15) days of its adoption, a summary of the ordinance shall be published in the Ceres Courier or other newspaper of general circulation, circulated and distributed in the City of Ceres, State of California, which summary shall include the names of those Council Members voting for and against the ordinance. A certified copy of the full text of such adopted ordinance or amendment shall be on file in the office of the City Clerk.

Chapter 06

APPEAL OF ADMINISTRATIVE DECISIONS

Sections:

- 1.06.010 Purpose.**
- 1.06.020 Construction with Other Code Provisions and State Law.**
- 1.06.030 Decisions Made by City Council.**
- 1.06.040 Definitions.**
- 1.06.050 Right to Appeal.**
- 1.06.060 Time Within Which to File an Appeal.**
- 1.06.070 Order of Reviewing Authorities.**
- 1.06.080 Contents of the Notice for Appeal.**
- 1.06.090 Filing Fee.**
- 1.06.100 Notice of Review Hearing.**
- 1.06.110 Review Hearing – Department Head, City Manager.**
- 1.06.120 Review Hearing – City Council.**

1.06.010 Purpose.

The purpose of this Chapter is to set forth uniform and fair procedures for appealing the approval, denial, suspension, or revocation of a license, permit, or entitlement of any nature, the determination or issuance of which is under any provisions of this Code, or appealing any administrative decision by any city official, if the approval, denial, suspension, or revocation of such license, permit, or entitlement or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised under any of provisions of this Code. The procedures set forth under this Chapter shall not apply to decisions made by the City Council.

1.06.020 Construction with Other Code Provisions and State Law.

The procedures established by this Chapter shall not apply to administrative decisions for which there are specific appeal procedures already established in any other chapter of the Code or any other provision of law that are applicable to the subject matter of an appeal and that are inconsistent with this Chapter. If such procedures exist and are applicable, then those specific procedures shall prevail and be applied for any appeal relating to that administrative decision. In all other instances, the appeals procedure of this Chapter shall apply.

1.06.030 Decisions Made by City Council.

The procedures set forth under this Chapter shall not apply to decisions made by City Council. Decisions made by the City Council shall not be subject to appeal, except as otherwise provided in this Code, state law, or by judicial proceedings in accordance with applicable law.

1.06.040 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

A. “Affected person” means those persons directly affected by the approval, denial, suspension, or revocation of a license, permit, or entitlement of any nature, the determination or issuance of which is under any provisions of this Code, or by any administrative decision by any city official, if the approval, denial, suspension, or revocation of such license, permit, or entitlement or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised under any of provisions of this Code.

B. “Appellant” means the affected person appealing an administrative decision.

C. “Review Hearing” means the hearing where the appellant presents testimony, evidence, or witness to the review authority.

D. “Reviewing Authority” means the City official or body who shall consider and make a determination of an appellant’s appeal.

1.06.050 Right to Appeal.

A. Only affected persons as defined under Section 1.06.040 shall have the right to appeal an administrative decision.

B. If an Appeals Board is empowered to consider interpretation and enforcement questions of the subject matter which is the basis of an administrative decision, no affected person may appeal such an administrative decision pursuant to the provisions of this Chapter, until the Appeals Board has considered and made a determination regarding the administrative decision.

C. No right to appeal shall exist from any administrative decision made by a city official under the provisions of this Code when such decision is ministerial in nature and thus does not involve the exercise of administrative discretion or personal judgment exercised under any of the provisions of this code, whether the administrative decision involves the approval, denial, suspension, or revocation of a license, permit, entitlement, or another administrative decision.

1.06.060 Time Within Which to File an Appeal.

An affected person desiring to appeal an administrative decision shall file a written notice of appeal with the City Clerk within ten (10) calendar days from receipt of written notice of the administrative decision to be appealed. In the event the last day of the filing period falls on a nonbusiness day, the appeal period shall be extended to the next business day. Any decision becomes final for all purposes once the time for filing a notice of appeal has expired.

1.06.070 Order of Reviewing Authorities.

An affected person desiring to appeal an administrative decision must make such an appeal in according to the following order:

- A. From a decision of City staff to the head of the staff member's department.
- B. From a decision of a department head to the City Manager; except that an appeal from the decision of the Director of Community Development to land use, zoning, or general plan issues or interpretations shall be made to the planning commission pursuant Title 18.
- C. From a decision of the City Manager to the City Council.
- D. From a decision of any City committee, board, or commission to the City Council.

1.06.080 Contents of the Notice for Appeal.

The notice for appeal shall contain all of the following:

- A. Appellant's name, mailing address, primary phone number, and e-mail address;
- B. The name, mailing address, primary phone number, and e-mail address for the person who shall be representing the appellant in the appeal hearing, if any;
- C. The Reviewing Authority to whom the appellant is appealing the administrative authority;
- D. The name of the city official, committee, or commission who rendered the administrative decision being appealed by appellant;
- E. The date the administrative decision was rendered;
- F. The name of the application or project approved, denied, suspended, revoked or otherwise affected by the administrative decision;
- G. The name of the City staff member(s), if any, with whom appellant has discussed the matter of the administrative decision with;
- H. State whether the administrative decision has been the subject matter of a previous appeal, and if so, when the appeal(s);
 - 1. If the matter has been previously appealed and the appellant is now appealing to the next level authority, as provided in Section 1.06.07, the appellant may attach to new appeal form a copy of the previously submitted notice of appeal(s) and state in the new notice of appeal why the lower authority's decision was incorrect and why the higher authority should hear the new appeal;

I. State the reason for appeal. Appellant shall explain what action(s) are being appealed and why the appeal should be considered. Appellant shall also include evidence which supports his or her appeal; and

J. Appellant's signature and the date of filing the notice of appeal.

1.06.090 Filing Fee.

Each notice for appeal shall be accompanied by a processing fee in an amount determined by resolution of the City Council which shall reasonably cover the costs of processing the notice.

1.06.100 Notice of Review Hearing.

A. Upon receipt of the filing of the notice of appeal in its proper form pursuant to Section 01.06.080], the City Clerk shall notify the appellant the date, time, and place of the Review Hearing at least ten (10) calendar days prior to the hearing.

B. If the Reviewing Authority is to be either a department head or the City Manager, then the Review Hearing shall occur no later than thirty (30) days after the date upon which the appellant filed the notice of appeal with the City Clerk in its proper form; provided, that the time period may be extended by the mutual consent of the City and the appellant.

C. If the Reviewing Authority is to be the City Council, then the Review Hearing shall be conducted no later than the second regular meeting which follows the filing of the notice of appeal and which allows sufficient time for giving notice pursuant to Subsection A of this Section.

D. The service of notice shall be by any of the methods provided under this Section.

E. If any City representatives submits a written report regarding the appealed administrative decision to the Reviewing Authority, then a copy of the report shall be served to the appellant at least five (5) calendar days prior to the Review Hearing.

1.06.110 Review Hearing – Department Head, City Manager

A. Review Hearings held by a Reviewing Authority who is either a department head or the City Manager shall be informal in nature. The Reviewing Authority may conduct the hearing informally, both as to rules of evidence and admission of evidence.

B. The Review Hearing shall be recorded either by audio or by video and the recording equipment shall be operated by a person who is neither the Reviewing Authority nor the appellant. The City shall provide appellant a copy of the recording within ten (10) days after the conclusion of the Review Hearing.

C. The appellant shall have the right to testify and introduce evidence.

D. The Reviewing Authority shall have the right to ask questions.

E. Within ten (10) calendar days after the conclusion of the Review Hearing, the Review Hearing issue a written decision which shall make one of the following conclusions:

1. Reverse the original administrative decision; or
2. Modify the original administrative decision; or
3. Sustain the original administrative decision.

F. The Reviewing Authority's written decision shall provide the reasoning and the facts which provide the basis for his or her conclusion regarding the appealed administrative decision.

G. The order shall become final on the date of service of the order and shall be served to the appellant and to the City official whose administrative decision was appealed upon by the appellant, by any one of the methods listed in Section 1.06.100 within ten (10) days of the order's issuance.

H. Should the appellant object to the Review Authority's written decision, the appellant may appeal the decision to the next appropriate reviewing authority as provided under Section 01.06.070. Such an appeal shall be made pursuant to Sections 01.06.060 to 01.06.080

1.06.120 Review Hearing – City Council.

A. An appellant may be represented by an attorney or by another competent representative during the Review Hearing.

B. The City official or body who rendered the original administrative decision may be represented by a city attorney or other competent representative.

C. The Reviewing Hearing shall be informal in nature and the City Council may conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which shall provide a fair and impartial hearing.

D. Any written report submitted by a City official pursuant to Subsection E of 01.06.100 may be considered by the City Council in making its decision.

E. The appellant shall have the right to testify, to call, examine, and cross examine witnesses, and present evidence in support in his or her case.

F. The City official or body who rendered the original administrative decision, or any prior reviewing authority who reviewed the same subject matter currently before the City Council, shall not advise any members of the City Council on the subject matter prior to conclusion of the Review Hearing. However, such City officials, bodies, or reviewing authorities may testify during the Review Hearing.

G. The City Council shall have the right to ask questions.

H. The City Council may continue the Review Hearing to the next regularly scheduled meeting of the City Council.

I. At the conclusion of the Review Hearing, the City Council shall cause a vote to resolve the appeal. The administrative decision upon which the appeal is based may be reversed or modified only by an affirmative vote of a majority of the authorized membership of the City Council. A vote of less than a majority of the City Council shall result in upholding the original administrative decision.

J. A Review Hearing where the City Council is the Reviewing Authority shall be subject to the Ralph M. Brown Act and other applicable laws.

Chapter 07

APPEALS AND JUDICIAL REVIEW

Sections:

1.07.010 Appeals and Judicial Review.

1.07.010 Appeals and Judicial Review.

Judicial review of any decisions made by the City Council or by any City officer, agency, commission, or board pursuant to Code of Civil Procedure section 1094.5 may be made only if the petition for writ of mandate is filed within the time limits specified in this section.

A. Any such petition shall be filed not later than the ninetieth (90th) day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision in any applicable ordinance or rule, then, for the purposes of this section, the decision is final on the date it is made. If there is such a provision for reconsideration, the decision is final for the purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision, the decision is final for the purposes of this section on the date that reconsideration is rejected.

B. If the petitioner requests a record of the proceedings, the City may, pursuant to Code of Civil Procedure section 1094.6(c), recover from the petitioner the actual costs for transcribing or otherwise preparing the record.

C. If the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition pursuant to Code of Civil Procedure section 1094.5 may be filed shall be extended to not later than the thirtieth (30th) day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record.

D. As used in this section, “decision” means an adjudicatory, administrative decision made after hearing, suspending, demoting, or dismissing an officer or employee, revoking or denying an application for a permit or license, or denying an application for any retirement or allowance.

E. In making a final decision, the City shall provide notice to the party regarding the time within which judicial review must be sought.