CITY COUNCIL AGENDA REPORT

MEETING DATE: 3/09/15 **ITEM NO:** 15

TO: Mayor and Members of the City Council

SUBJECT: OUTDOOR DINING AND SEATING SAFETY STANDARDS FOR CERTAIN PARKING LOTS IN THE CITY; and

ORDINANCE NO. 15-817 AN ORDINANCE OF THE CITY OF ARTESIA ESTABLISHING A NEW OUTDOOR DINING AND SEATING SAFETY STANDARD FOR CERTAIN PARKING LOTS IN THE CITY, AMENDING THE ARTESIA MUNICIPAL CODE, AND MAKING A DETERMINATION PURSUANT TO CEQA

Case No. 2014-29 (Code Amendment)

FROM: Okina Dor, Community Development Director
William Rawlings, City Manager

REVIEWED AND APPROVED BY:

Deputy City Manager/Director of Finance, Justine Menzel
City Attorney, Kevin Ennis
City Manager, William Rawlings

PRESENTATION BY: Okina Dor, Community Development Director

ACTION REQUESTED

Staff recommends that the City Council take action to introduce Ordinance No. 817, to establish new outdoor dining and seating safety standards for certain parking lots in the City, which reflects City Council direction to address increasing the safety of businesses with sidewalks/pedestrian areas with outdoor seating that are immediately adjacent to front-end parking stalls.

BACKGROUND

After the February 9, 2015 regular City Council Meeting, Staff prepared a draft ordinance reflecting the input and direction provided by the City Council. Staff presented the City Council with a list of four proposed priority regulations addressing vehicle-into-building crashes and pedestrian safety. The City Council directed Staff to prepare a draft ordinance that implemented the regulations suggested under Staff's proposed Priority No. 1. Priority No. 1 proposed safety regulations that apply to businesses with sidewalks and pedestrian areas with outdoor seating that are immediately adjacent to front-end parking stalls.

On February 17, 2015, the Planning Commission conducted a continued public hearing

regarding the proposed Code Amendment, as revised by the City Council to implement safety regulations focused on Priority No. 1, and following the receipt of all public testimony, closed the public hearing. After consideration of the proposed revised Code Amendment, the Planning Commission did not make a recommendation to the City Council on whether to adopt the proposed Code Amendment.

Although the Planning Commission did not make a recommendation either in favor or against the proposed revised Code Amendment, the Commission discussed the following revisions to the draft ordinance text:

1. Because the draft ordinance has been revised to delete the minimum impact resistance level standard for the bollards of 5,000/lbs traveling at 30 mph, additional installation standards should be included in Section 9-2.1105(h)(3) to avoid the installation of weak and ineffective bollards that cannot withstand vehicle impacts (e.g., the bollards must be filled with concrete).
2. Provisions should be included in the regulations that require the Community Development Director and the Public Works Director to develop design and insulation standards for the bollards.
3. Provisions should be included in the regulation that require a permit approval and inspection process through the City's Planning Department regarding the installation of the bollards.
4. The regulations should focus on implementing Priorities 2 and/or 3 in addition to Priority 1.
5. The regulations should apply to public and private property.

ZONING CODE AMENDMENT

The City of Artesia, has initiated an amendment to Article 11 of the City's Zoning Code in accordance with Section 9-2.1105 of the Artesia Municipal Code (the "Zoning Code Amendment") to address vehicle-into-building crashes that occur at businesses with sidewalks or pedestrian areas with outdoor seating that are immediately adjacent to front-end parking stalls.

Planning Department Staff finds that the proposed Code Amendment, amending Section 9-2.1105, is consistent with General Plan Land Use Sub-Element Community Goal LU 1, which supports a well planned community with sufficient land uses to achieve the community's vision, General Plan Land Use Sub-Element Community Policy LU 1.3, which encourages active and inviting pedestrian-friendly street environments that include a variety of uses within commercial and mixed-use areas, and General Plan Land Use Sub-Element Policy Action LU 1.3.1, which encourages enhanced safety experience for pedestrians, with a focus on improvements in areas with the highest need. Amending the Artesia Municipal Code to modify the parking lot design requirements will help reduce the possibility of injury, property damage and death that can occur from vehicles driving through a parking lot area and injuring pedestrians in perimeter walkways or in abutting business establishments.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, Planning Department Staff has determined that the proposed Code Amendment (the "Project") is categorically exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because

it can be seen with certainty that there is no possibility that the proposed Code Amendment to enact and impose vehicle impact protection standards for parking lot use will have a significant effect on the environment. Further, the Project qualifies under the Class 3 exemption because it consists of construction and location of limited numbers of new, small structures and the installation of small new equipment and facilities in small structures.

FISCAL REVIEW

There will be no fiscal impact to the City other than staff time preparing City Council and Planning Commission staff reports and the draft ordinance, and overseeing and implementing the safety regulations should the Council adopt the proposed ordinance.

STAFF RECOMMENDATION

Staff recommends moving forward with previous City Council direction to focus on Priority No. 1, as drafted in Ordinance No. 15-817, attached. Priority No. 1 focuses on safety regulations that apply to certain businesses with sidewalks and pedestrian areas with outdoor seating that are immediately adjacent to front-end parking stalls.

Staff recommends the City Council take action to waive full reading and introduce Ordinance No. 15-817, a code amendment to establish:

"AN ORDINANCE OF THE CITY OF ARTESIA ESTABLISHING A NEW OUTDOOR DINING AND SEATING SAFETY STANDARD FOR CERTAIN PARKING LOTS IN THE CITY, AMENDING THE ARTESIA MUNICIPAL CODE, AND MAKING A DETERMINATION OF CATEGORICAL EXEMPTION UNDER CEQA"

Attachments:

1. February 17, 2015 Planning Commission Staff Report
2. Draft Ordinance No. 15-817

"Service Builds Tomorrow's Progress"

THE CITY OF ARTESIA, CALIFORNIA

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CITY OF ARTESIA
PLANNING COMMISSION
MEETING OF FEBRUARY 17, 2015
STAFF REPORT

CASE NO. 2014-29: PC Resolution No. 2014-28P

TO: **HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

FROM: **OKINA DOR, COMMUNITY DEVELOPMENT DIRECTOR**
JOSE HERNANDEZ, ASSISTANT PLANNER
SERITA YOUNG, DEPUTY CITY ATTORNEY

DATE: **FEBRUARY 17, 2015**

SUBJECT: **CASE NO. 2014-29 (DRAFT VEHICLE IMPACT PROTECTION ORDINANCE)**

APPLICANT: City of Artesia
18747 Clarkdale Avenue
Artesia, CA 90701

OWNER: N/A

LOCATION: City Wide

PROPOSAL: The City of Artesia is initiating a code amendment to establish new vehicle impact protection standards for parking lots in the City, amending the Artesia Municipal Code and making a determination pursuant to CEQA.

DEVELOPMENT SUMMARY:

ADDRESS: City Wide

LEGAL NOTICE REQUIREMENTS:
Notice of the public hearing was published in the Los Cerritos Community News on December 5, 2014 and mailed to the property owners within the required three hundred (300) foot radius of the site. At the December 16, 2014 Planning Commission meeting the public hearing was left open and the project was continued until needed so that staff may put together a recommendation for the Planning Commission to consider.

ENVIRONMENTAL ASSESSMENT:
Pursuant to the California Environmental Quality Act ("CEQA"), the Planning Department has determined that the proposed Code Amendment is exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed safety requirements for parking stalls located within the City of Artesia would have a significant effect on the environment.

BACKGROUND

At the June 9, 2014 Regular City Council Meeting, Councilmember Manalo requested that the City develop a Vehicle Impact Protection Ordinance to reduce the incidence of vehicle-into-building crashes that occur in private parking lots.

At the July 14, 2014 City Council meeting, staff provided background information on the problem of vehicle-into-building crashes, an analysis of what can be done to reduce the risk of injury or death from these crashes, the types of devices that are available to address the problem, and a survey of what some other cities and counties have done. Staff also presented a draft ordinance for review and input from the Council.

Since August 11, 2014 to present, staff provided a revised draft ordinance to both the City Council and Planning Commission for discussion and the item was discussed at great length. During the period of discussion, there were a lot of issues and concerns that was brought up by both the Planning Commission and City Council.

As a result, Staff has put together a draft ordinance reflecting the input and direction provided by City Council. Provided below reflects the priorities that were considered. In conclusion, priority one was embraced as the adequate measure to protect pedestrians in parking lots.

A. Recommended Primary Goal

Staff believes the City's primary goal should be to ensure the safety of as many of our pedestrians, as quickly as possible, in conformity with legal restrictions, and while minimizing cost. Staff believes the City's priorities should apply to businesses with front-in, facing parking areas where pedestrians would normally be, with parking directly in front of a retail or commercial business ONLY.

B. Properties to be Subject to Vehicle Impact Protection Requirements

The City Manager and Staff recommends the following Policy Priorities:

1. **FIRST PRIORITY PROPERTIES – Properties with Outdoor Seating:** The proposed ordinance should address businesses with sidewalks/pedestrian areas with outdoor seating that are immediately adjacent to front-end parking stalls (e.g., the Farrell's property in Buena Park). Staff believes this First Priority will address 100% of vehicle-into-building crashes originally identified by Councilmember Manalo:

    a. Require redesign or installation of barriers/vehicle impact protection devices as follows:

        i. Reconfigure/change the front end parking stall striping to prevent/avoid head-on parking so that the problem does not exist (minimal cost)

        ii. If that cannot be accomplished, then remove the seating area (minimal cost)

        iii. If item (i) and (ii) above cannot be done, then put in barrier devices to protect those area(s) (one bollard in the middle of each head-in parking stall, $250-$475 estimated costs each for bollards designed to achieve impact resistance levels of less than 5,000 lbs traveling at 30 mph)

    In order to comply with legal restrictions on how new development standards can be imposed on existing developed properties, a phase-in period (sometimes referred to as an amortization period) is required to be established so that property owners have the ability to financially plan and adjust for cost to comply with new standards. A reasonable amortization period for each of the Items above would be as follows: Item (i) could be required within one year of adoption of the ordinance, Item (ii) could be required within the second year after adoption of the ordinance and Item (iii) would be required within the third year after adoption of the ordinance. The phase-in period for Item (iii) may vary from a minimum of 3 to 5 years depending upon the number of bollards required to be installed.

    For example: locations that may be affected by this:

    1. Subway at Stater Bros Center (outdoor seating)
    2. McDonalds (outdoor seating)

2. **SECOND PRIORITY PROPERTIES – Properties with Walkways in Front of Parking Stalls:** The proposed ordinance should address businesses that have pedestrian areas other than seating (i.e., walkways in front of or immediately adjacent to front-end parking stalls)

    a. Reconfigure/change the front end parking stall striping to prevent/avoid head-on parking so that the problem does not exist (minimal cost)

b. If that cannot be accomplished, then remove the pedestrian area (i.e., walkway) (minimal cost)

c. Install barrier devices in front of handicap stalls only or move handicap stalls to avoid the installation of barrier devices (handicap stalls represent the vast majority of accidents, as Staff understands the statistics) (minimal to $250 to $475 cost)

d. Install barrier devices between the parking area (other than handicap stalls) only where grant funding is available to the private property owner (zero cost)

e. Consider installing the barrier devices at property owner's own cost (the property owner would be encouraged to install devices in parking areas other than handicap stalls, but would not be required to do so by the City).

The proposed amortization for these standards is recommended to be one year after adoption of the ordinance for Item (a), two years after adoption of the ordinance for Item (b), and three years after adoption of the ordinance for Item (c). The phase-in period for Item (c) may vary from a minimum of 3 to 5 years depending upon the number of bollards required to be installed. There would be no required amortization for Items (d) and (e) because those are not required to be installed, and if they are, they would not be installed at the property owner's expense.

Locations that may be affected by this: Approximately 76 parcels

3. **THIRD PRIORITY PROPERTIES – Properties with Front-End Parking Along Store Fronts-No Pedestrian Areas:** The proposed ordinance will address store fronts that have front-end parking stalls, but no pedestrian areas:

   a. Reconfigure/change the front end parking stall striping to prevent/avoid head-on parking so that the problem does not exist (minimal cost)

   b. Install barrier devices in front of handicap stalls only or move handicap stalls to avoid the installation of barrier devices (minimal to $250 to $475 cost)

   c. Install barrier devices between the parking area and store fronts, window area only where grant funding is available to the private property owner (zero cost)

   d. Consider installing the barrier devices at property owner's own cost (the property owner would be encouraged to install devices in parking areas other than handicap stalls, but would not be required to do so by the City)

   The reasonable amortization period applicable for these standards would be one year of adoption of the ordinance for Item (a) and two years after adoption for Item (b). There would be no required amortization for Items (c) and (d) because those items are not required to be installed, and if they are, they would not be installed at the applicant's expense.

Locations that may be affected by this: There are 2 parcels

1. Haveli India Cuisine on Pioneer Blvd
2. Medical Clinic on Norwalk Blvd

4. **FOURTH PRIORITY PROPERTIES – All Other Properties:** All other properties not addressed in Priorities One through Three:

    a. Do not impose any vehicle impact protection requirements at this time (no requirement needed) (zero cost)

STAFF RECOMMENDATION

Planning Staff recommends that the Planning Commission **only** consider priority number one as noted above as this was the. A draft resolution has been written only reflecting priority number one. Priority number one was embraced by the majority of the Artesia Council when the staff presented the item at the regularly scheduled City Council meeting in January 12, 2015.

ZONING CODE AMENDMENT

Staff recommends that title of Section 9-2.1105 "Parking Facilities: Paving, Marking, Bumper Guards, Screening, Lighting and Mechanical Lifts" of Article 11 (Off-Street Parking and Loading) of Chapter 2 (Zoning) of Title 9 (Planning and Zoning) of the Artesia Municipal Code is hereby amended to read as follows:

"9-2.1105 Parking Facilities: Paving, Marking, Bumper Guards, Screening, Lighting, Mechanical Lifts and Vehicle Impact Protection Standards."

Staff recommends that Subsection (h) is hereby added to Section 9-2.1105 (Parking Facilities: Paving, Marking, Vehicle Impact Protection Standards, Screening, Lighting and Mechanical Lifts) of Article 11 (Off-Street Parking and Loading) of Chapter 2 (Zoning) of Title 9 (Planning and Zoning) of the Artesia Municipal Code to read as follows:

"(h) Vehicle Impact Protection Standards.

(1) Vehicle Impact Protection Devices Required. Vehicle impact protection devices, as defined and described in this Subsection (h), shall be required adjacent to parking spaces that are angled between thirty (30) to ninety (90) degrees relative to an immediately adjacent outdoor pedestrian seating area.

(2) Exemptions. The installation of vehicle impact protection devices shall not be required on properties subject to Subsection (h)(1) of this Section 9-2.1105 if:

(i) The parking spaces that require vehicle impact devices are reconfigured or re-striped to eliminate front-end parking angled between thirty (30) to ninety (90) degrees relative to the immediately adjacent outdoor pedestrian seating area; or

(ii) The outdoor pedestrian seating is permanently removed.

(3) Elements of Vehicle Impact Protection Devices. Required vehicle impact protection devices shall take the form of bollards, as defined and provided below:

(i) Bollards, posts and guard posts shall comply with all of the following requirements:

(aa) Constructed of steel or other material not less than four (4) inches in diameter.

(ab) Spaced so that one (1) post or bollard is provided for each parking space required to have the device, with the post or bollard located on the centerline of the parking space. The City's Planning Director may approve minor deviations to these spacing requirements to accommodate site conditions and different sizes of parking spaces or loading areas.

(ac) Set with the top of the post not less than three (3) feet and not greater than four (4) feet above finished grade.

(ad) Located between the vehicle parking space or drive aisle and the seating area of the building to be protected.

(ae) Such bollards or posts shall be black, grey, safety yellow, bronze, stainless steel, concrete finish or similar color, as approved by the Planning Commission or Planning Director, as applicable.

(af) The color and design of the bollards or posts shall be consistent throughout each shopping center, unless otherwise approved by the Planning Commission for those projects subject to Planning Commission approval, or by the Planning Director for those projects exempt from Planning Commission review and approval.

(ag) Bollards or posts shall be properly maintained, including no visible rust or corrosion, and be kept in uniform alignment. Use of protective or decorative sleeves is permitted.

(4) ADA Compliant Parking Spaces. Where a parking space is required to be ADA compliant and is located in an area of a parking lot specified in Subsection (h)(1) of this Section 9-2.1105 so as to require vehicle impact protection devices adjacent to the parking space, bollards or posts may be substituted for wheel stops and the ADA signage may be mounted on a pole that is mounted or affixed to the post or bollard.

(5) Conflicts with other Laws. In the event the terms of this Subsection (h) or its application to a particular parking lot would cause a parking lot to not comply with a provision of federal or state law or another provision of the City's Municipal Code, City staff shall apply this Subsection (h) in a manner to carry out the provisions of both federal and state law and the other provisions of this Code and the provisions of this Subsection (h). When there is an irreconcilable conflict between the provisions of this Subsection (h) and the provisions of federal or state law or other provisions of this Code, the provisions of federal and state law and the other provisions of this Code shall prevail over this Subsection (h) and only to the extent necessary to avoid a violation of

those other laws or Code provisions. If the Planning Director determines that the provisions of federal or state law or the other provisions of this Code prevail over this Subsection (h) with respect to a particular lot or parcel, the Planning Director shall provide the owner of that lot or parcel with such determination in writing within ten (10) calendar days of the date of his or her determination.

(6) Minor Adjustments. The Planning Commission or the Planning Director may approve minor modifications to the Vehicle Impact projection standards contained in this Subsection (h) to accommodate for the location of above ground or underground utilities or other existing or planned features of the development, provided the modifications achieve the same protections as intended by this Subsection (h).

(7) Amortization Periods. A property owner shall be provided between one and three years to comply with the requirements of this Subsection (h) as follows:

(i) Reconfiguration of Parking Spaces. If a property owner does not wish to install vehicle protection devices and desires to qualify a property as exempt by reconfiguring parking spaces, the property owner shall provide the Planning Director with written notice of intent to claim this exemption within thirty (30) calendar days following receipt of notice of the requirements of this Subsection (h) from the Planning Director. The property owner shall reconfigure or re-strip the applicable parking spaces on or before the first year following the effective date of the ordinance adopting this Subsection (h). If the parking spaces are not reconfigured or re-striped within the one-year amortization period, the property shall be subject to and comply with the vehicle impact protection device requirements set forth in Subsection (h)(1).

(ii) Removal of Outdoor Pedestrian Seating Areas. If a property owner does not wish to install vehicle protection devices and desires to qualify a property as exempt by removing outdoor pedestrian seating areas, the property owner shall provide the Planning Director with written notice of intent to claim this exemption within thirty (30) calendar days following receipt of notice of the requirements of this Subsection (h) from the Planning Director. The property owner shall remove the applicable outdoor pedestrian seating areas on or before the second year following the effective date of the ordinance adopting this Subsection (h). If the outdoor pedestrian seating areas are not removed within the two-year amortization period, the property shall be subject to and comply with the vehicle impact protection device requirements set forth in Subsection (h)(1).

(iii) Installation of Vehicle Impact Protection Devices. The vehicle impact protection devices required by Subsection (h)(1) shall be installed on or before the third year following the effective date of the ordinance adopting this Subsection (h)."

FINDINGS FOR ZONING CODE AMENDMENT

Based on the evidence and all other applicable information presented, Planning Staff finds that the proposed Zoning Code Amendment is consistent with the goals and policies of the General Plan 2030, and will not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The proposed Zoning Code

Amendment is consistent with General Plan Land Use Sub-Element Community Policy LU 1.3, which encourages active and inviting pedestrian-friendly street environments that include a variety of uses within commercial and mixed-use areas, and General Plan Land Use Sub-Element Policy Action LU 1.3.1, which encourages enhanced safety experience for pedestrians, with a focus on improvements in areas with the highest need. Amending the Artesia Municipal Code to modify the parking lot design requirements will help reduce the possibility of injury, property damage and death that can occur from vehicles driving through a parking lot area and injuring pedestrians in perimeter walkways or in abutting business establishments. Foremost, the adoption of this code amendment will not have a significant effect on the environment.

FISCAL IMPACTS
There will be no fiscal impacts to the City of Artesia.

REQUESTED ACTION:
Based on the findings described above, Planning Commission recommends adoption of a code amendment to the City Council and approval of Case No. 2014-29 and Planning Commission Resolution No. 2014-28P.

Attachments:
1. Draft Ordinance
2. P.C. Resolution No. 2014-28P

ORDINANCE NO. 15-817

AN ORDINANCE OF THE CITY OF ARTESIA ESTABLISHING A NEW OUTDOOR DINING AND SEATING SAFETY STANDARD FOR CERTAIN PARKING LOTS IN THE CITY, AMENDING THE ARTESIA MUNICIPAL CODE, AND MAKING A DETERMINATION PURSUANT TO CEQA

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

SECTION 1. The City of Artesia has initiated a code amendment to the Artesia Municipal Code to establish new standards in parking lot design to lessen the chance for vehicle–into-building crashes and to protect persons, pedestrians, businesses and property from death or injury from vehicles that may through operator error or otherwise drive past or through a parking space and into areas designated for outdoor pedestrian seating. This Code Amendment is known as Case No. 2014-29 and is referred to as the "Artesia Outdoor Dining and Seating Safety Standard Ordinance."

SECTION 2. The City Council makes the following findings in connection with the adoption of this ordinance:

A. Experts in vehicle-into-building crashes have estimated that each day in the United States there are up to 60 vehicle-into-building crashes caused mostly by pedal error or other driver error. For example, approximately 20 times each day, a convenience store in the United States is damaged by a vehicle-into-building crash, and up to 10 times each day a quick serve restaurant is damaged by a vehicle-into-building crash.

B. Experts in vehicle-into-building crashes indicate that as many as 500 people die each year as victims of vehicle-into-building crashes.

C. Experts in vehicle-into-building crashes indicate that standard parking lot wheel stops and raised sidewalks are not sufficient, by themselves, to stop the force of a vehicle in such pedal error accidents and that other design standards and devices are needed to protect pedestrians, shoppers and customers.

D. Building codes already have design standards to protect gas meters, fire hydrants, electrical switching equipment, trash enclosures and other equipment from vehicle crashes but have yet to establish and impose appropriate standards for protection of pedestrians, shoppers and customers of retail shops, restaurants and other establishments.

E. Many of these accidents and deaths are preventable if parking lots are designed and built with vehicle impact safety devices to prevent vehicles from driving into pedestrian walking and seating areas and into adjacent stores, restaurants and other buildings.

F. No one design, device or requirement is appropriate for all locations and all conditions, and therefore property owners, architects, engineers and business owners should be given the flexibility to utilize a variety of design elements and devices to protect pedestrians, shoppers and customers in areas near vehicle parking areas.

G. The goal of this ordinance is to establish standards for the design of vehicle impact protective devices that achieves an appropriate level of safety but not one set so high as to require unnecessarily expensive and aesthetically inappropriate structures within parking lot areas of the City.

H. The City Council also desires to establish development standards for private parking lots in a manner that balances: (i) the public interest in protecting pedestrians, shoppers and customers from vehicle-into-building crashes; (ii) the financial burden on property owners and businesses of providing appropriate protective designs and devices; and (iii) the goal of encouraging innovation, variety and aesthetic variation so as to give property owners and businesses flexibility depending on the conditions specific to each location.

SECTION 3. On December 2, 2014, the Planning Commission conducted a duly noticed Special Meeting and discussed the proposed Code Amendment. The Planning Commission provided staff with direction regarding revisions to the proposed Code Amendment and requested further information from staff concerning vehicle–into-building crashes.

SECTION 4. On December 16, 2014, the Planning Commission conducted a duly noticed public hearing regarding the proposed Code Amendment, and following receipt of all public testimony, continued the item and public hearing off calendar until such time as staff could provide further information concerning vehicle–into-building crashes.

SECTION 5. On February 17, 2015, the Planning Commission conducted a continued public hearing regarding the proposed Code Amendment, and following the receipt of all public testimony, closed the public hearing. After consideration of the proposed Code Amendment, the Planning Commission did not make a recommendation to the City Council on whether to adopt the proposed Code Amendment.

SECTION 6. On March 9, 2015, the City Council of the City of Artesia conducted a duly noticed public hearing regarding the proposed Code Amendment, and following receipt of public testimony, closed the public hearing.

SECTION 7. Pursuant to the CEQA and the City's local CEQA Guidelines, the Planning Department Staff has determined that the proposed Code Amendment (the "Project") is categorically exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Code Amendment to enact and impose vehicle impact protection standards for parking lot use will have a significant effect on the environment. Further, the Project qualifies under the Class 3 exemption

because it consists of construction and location of limited numbers of new, small structures and the installation of small new equipment and facilities in small structures. The City Council has reviewed the Planning Department's determinations of exemption, concurs in the staff's determinations of exemption, and based on its own independent judgment, concurs with staff's determinations of exemption.

SECTION 8. The City Council hereby concurs with the Planning Commission's findings that the proposed Code Amendment, amending Section 9-2.1105 is consistent with General Plan Land Use Sub-Element Community Goal LU 1, which supports a well planned community with sufficient land uses to achieve the community's vision, General Plan Land Use Sub-Element Community Policy LU 1.3, which encourages active and inviting pedestrian-friendly street environments that include a variety of uses within commercial and mixed-use areas, and General Plan Land Use Sub-Element Policy Action LU 1.3.1, which encourages enhanced safety experience for pedestrians, with a focus on improvements in areas with the highest need. Amending the Artesia Municipal Code to modify the parking lot design requirements will help reduce the possibility of injury, property damage and death that can occur from vehicles driving through a parking lot area and injuring pedestrians in perimeter walkways or in abutting business establishments.

SECTION 9. The title of Section 9-2.1105 "Parking Facilities: Paving, Marking, Bumper Guards, Screening, Lighting and Mechanical Lifts" of Article 11 (Off-Street Parking and Loading) of Chapter 2 (Zoning) of Title 9 (Planning and Zoning) of the Artesia Municipal Code is hereby amended to read as follows:

> "**9-2.1105 Parking Facilities: Paving, Marking, Bumper Guards, Screening, Lighting, Mechanical Lifts and Outdoor Dining and Seating Safety Standards.**"

SECTION 10. Subsection (h) is hereby added to Section 9-2.1105 (Parking Facilities: Paving, Marking, Bumper Guards, Screening, Lighting, Mechanical Lifts and Outdoor Dining and Seating Safety Standards) of Article 11 (Off-Street Parking and Loading) of Chapter 2 (Zoning) of Title 9 (Planning and Zoning) of the Artesia Municipal Code to read as follows:

"(h) *Outdoor Dining and Seating Safety Standards.*

(1) Vehicle Impact Protection Devices Required. Vehicle impact protection devices, as defined and described in this Subsection (h), shall be required adjacent to parking spaces that are angled between thirty (30) to ninety (90) degrees relative to an immediately adjacent outdoor pedestrian seating area.

(2) Exemptions. The installation of vehicle impact protection devices shall not be required on properties subject to Subsection (h)(1) of this Section 9-2.1105 if:

(i) The parking spaces that require vehicle impact devices are reconfigured or re-striped to eliminate front-end parking angled between thirty

(30) to ninety (90) degrees relative to the immediately adjacent outdoor pedestrian seating area; or

(ii) The outdoor pedestrian seating is permanently removed.

(3) Elements of Vehicle Impact Protection Devices. Required vehicle impact protection devices shall take the form of bollards, as defined and provided below:

(i) Bollards, posts and guard posts shall comply with all of the following requirements:

(aa) Constructed of steel or other material not less than four (4) inches in diameter.

(ab) Spaced so that one (1) post or bollard is provided for each parking space required to have the device, with the post or bollard located on the centerline of the parking space. The City's Planning Director may approve minor deviations to these spacing requirements to accommodate site conditions and different sizes of parking spaces or loading areas.

(ac) Set with the top of the post not less than three (3) feet and not greater than four (4) feet above finished grade.

(ad) Located between the vehicle parking space or drive aisle and the seating area of the building to be protected.

(ae) Such bollards or posts shall be black, grey, safety yellow, bronze, stainless steel, concrete finish or similar color, as approved by the Planning Commission or Planning Director, as applicable.

(af) The color and design of the bollards or posts shall be consistent throughout each shopping center, unless otherwise approved by the Planning Commission for those projects subject to Planning Commission approval, or by the Planning Director for those projects exempt from Planning Commission review and approval.

(ag) Bollards or posts shall be properly maintained, including no visible rust or corrosion, and be kept in uniform alignment. Use of protective or decorative sleeves is permitted.

(4) ADA Compliant Parking Spaces. Where a parking space is required to be ADA compliant and is located in an area of a parking lot specified in Subsection (h)(1) of this Section 9-2.1105 so as to require vehicle impact protection devices adjacent to the parking space, bollards or posts may be substituted for wheel stops and the ADA signage may be mounted on a pole that is mounted or affixed to the post or bollard.

(5) Conflicts with other Laws. In the event the terms of this Subsection (h) or its application to a particular parking lot would cause a parking lot to not comply with a provision of federal or state law or another provision of the City's Municipal Code, City staff shall apply this Subsection (h) in a manner to carry out the provisions of both federal and state law and the other provisions of this Code and the provisions of this Subsection (h). When there is an irreconcilable conflict between the provisions of this Subsection (h) and the provisions of federal or state law or other provisions of this Code, the provisions of federal and state law and the other provisions of this Code shall prevail over this Subsection (h) and only to the extent necessary to avoid a violation of those other laws or Code provisions. If the Planning Director determines that the provisions of federal or state law or the other provisions of this Code prevail over this Subsection (h) with respect to a particular lot or parcel, the Planning Director shall provide the owner of that lot or parcel with such determination in writing within ten (10) calendar days of the date of his or her determination.

(6) Minor Adjustments. The Planning Commission or the Planning Director may approve minor modifications to the Vehicle Impact projection standards contained in this Subsection (h) to accommodate for the location of above ground or underground utilities or other existing or planned features of the development, provided the modifications achieve the same protections as intended by this Subsection (h).

(7) Amortization Periods. A property owner shall be provided between one and three years to comply with the requirements of this Subsection (h) as follows:

(i) Reconfiguration of Parking Spaces. If a property owner does not wish to install vehicle protection devices and desires to qualify a property as exempt by reconfiguring parking spaces, the property owner shall provide the Planning Director with written notice of intent to claim this exemption within thirty (30) calendar days following receipt of notice of the requirements of this Subsection (h) from the Planning Director. The property owner shall reconfigure or re-strip the applicable parking spaces on or before the first year following the effective date of the ordinance adopting this Subsection (h). If the parking spaces are not reconfigured or re-striped within the one-year amortization period, the property shall be subject to and comply with the vehicle impact protection device requirements set forth in Subsection (h)(1).

(ii) Removal of Outdoor Pedestrian Seating Areas. If a property owner does not wish to install vehicle protection devices and desires to qualify a property as exempt by removing outdoor pedestrian seating areas, the property owner shall provide the Planning Director with written notice of intent to claim this exemption within thirty (30) calendar days following receipt of notice of the requirements of this Subsection (h) from the Planning Director. The property owner shall remove the applicable outdoor pedestrian seating areas on or before the second year following the effective date of the ordinance adopting this

Subsection (h). If the outdoor pedestrian seating areas are not removed within the two-year amortization period, the property shall be subject to and comply with the vehicle impact protection device requirements set forth in Subsection (h)(1).

(iii) Installation of Vehicle Impact Protection Devices. The vehicle impact protection devices required by Subsection (h)(1) shall be installed on or before the third year following the effective date of the ordinance adopting this Subsection (h)."

SECTION 11. The City Council declares that, should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

SECTION 12. This Ordinance shall take effect and be in full force and effect thirty (30) calendar days from and after the date of its final passage and adoption.

SECTION 13. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

SECTION 14. The City Council directs the Planning Director to provide a certified copy of this Ordinance and written notice of the effective date of this Ordinance to all property owners subject to this Ordinance within thirty (30) calendar days following the effective date of this Ordinance.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2015

_____
MIGUEL CANALES, MAYOR

ATTEST:

_____
GLORIA CONSIDINE, CITY CLERK/CITY TREASURER

ROLL CALL VOTE:

I, Gloria Considine, City Clerk of the City of Artesia, do hereby certify that the foregoing ordinance was adopted at a regular meeting held on the _____ day of _____, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAINED: COUNCIL MEMBERS: