

**ORDINANCE NO. 1172**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AMENDING AND RESTATING CHAPTER 13, TITLE 11 OF THE LOS BANOS MUNICIPAL CODE**

WHEREAS, Government Code Section 53075.5 requires every city and county to protect the public health, safety and welfare by adopting an ordinance concerning the provision of taxicab services; to provide a policy for entry into the business of providing taxicab services; to establish maximum rates for the provision of such services; and for such other matters as determined by the legislative body; and,

WHEREAS, the City Council desires to provide for the orderly, efficient, and safe operation of taxicab services within the City of Los Banos; and,

WHEREAS, to modernize the regulation of taxicab transportation services and in order for taxicabs to better compete with all for hire modes of transportation the State amended Government Code Section 53075.5 through Assembly Bill 1069 and Assembly Bill 939 effective January 1, 2019; and,

WHEREAS, Chapter 13 of Title 11 of the Los Banos Municipal Code currently regulates taxicab businesses and drivers that are operating within the City of Los Banos; and

WHEREAS, the City Council desires to amend Chapter 13 of Title 11 to update local taxicab regulations in order to comply with the new state law mandates of Assembly Bill 1069 and Assembly Bill 939.

NOW THEREFORE, The City Council of the City of Los Banos ordains as follows:

Section 1. Title 11, Chapter 13 of the Los Banos Municipal Code is hereby amended to read as follows:

**Chapter 13 TAXICAB PERMITS**

**Sec. 11-13.010 Purpose.**

State law requires every city or county to adopt an ordinance or resolution in regards to taxicab transportation services, which include, among others, a policy for entry into the business, establishment of registration rates, and mandatory controlled substance and alcohol testing programs. In October 2017, Assembly Bill 1069 was enacted to modernize the regulation of taxicab transportation services in order for taxicabs to better compete with all for hire modes of transportation. In September, 2018, Assembly Bill 939 was subsequently enacted imposing additional duties on local governments related to taxicab transportation services. This Ordinance establishes a permitting process and regulatory structure consistent with the requirements of Assembly Bill 1069 and Assembly Bill 939.

**Sec. 11-13.020 Application of chapter.**

The permit requirements of this chapter apply to:

(a) Taxicab businesses that are substantially located within the City of Los Banos; and

(b) Taxicab drivers of a taxicab business that is substantially located within the City of Los Banos.

**Sec. 11-13.030 Definitions.**

For the purposes of this chapter, the following words and phrases are as defined in this section:

"Certificate of inspection" means a City provided form signed by an authorized agent of an automotive repair establishment that is certified by the National Institute for Automotive Service Excellence or a facility registered with the Bureau of Automotive Repair, dated no more than thirty (30) days before the date the application is submitted to the Director and which indicates whether a certain vehicle has met the criteria set forth on the form. Items to be inspected may include condition of exterior, interior and mechanical functions.

"City" means the City of Los Banos.

"Controlled substance and alcohol certificate" means a City provided form signed by the employing taxicab business that attests that each taxicab driver has tested negative for each of the controlled substances specified in Part 40 of Title 49 of the Code of Federal Regulations, before employment and as a condition of permit renewal; in the case of self-employed independent drivers, it means that such test results are directly reported to the Police Chief.

"County" means the County of Merced.

"Director" means the Community and Economic Development Director or the Director's designee.

"Drive a taxicab" means to drive a taxicab that picks up passengers within the City but does not include driving a taxicab that only discharges passengers picked up outside the City or that travels through the City without picking up or discharging passengers, provided the taxicab company's principal place of business is not within the City.

"Police Chief" means the Chief of Police of the City, or the Police Chief's designee.

"Prearranged trip" means a trip using an online enabled application, dispatch, or Internet website.

"Substantially located" means a taxicab business that meets either of the following criteria: (1) the primary business address is located within the City; or (2) the total number of prearranged and non-prearranged trips that originate in the City account for the largest share of the taxicab business's total number of trips within the County over the past calendar year as determined annually.

"Taxicab" means every motor vehicle: (1) designed for carrying not more than eight (8) persons, excluding the driver; (2) of a distinct color or commercial appearance used in the business of carrying passengers for hire; and (3) which is hired by the passenger and the destination and route of which are under the control of the passenger being carried. This definition excludes vehicles subject to regulation by the California Public Utilities Commission.

"Taxicab business" means a person, sole proprietorship, company, firm, association, corporation, partnership or other entity that operates a taxi service consisting of one or more taxicabs within the city limits of the City of Los Banos.

"Taxicab driver" means every person that drives a taxicab, whether as an employee, an independent contractor, or a self-employed person.

"Trip data documentation" means documentation as determined by the Director that substantiates that the total number of prearranged and non-prearranged trips that originate within the City account for the largest share of the taxicab business' total number of trips in the County over the previous calendar year.

**Sec. 11.13.040 Business license required.**

Every taxicab business substantially located within the City must obtain a business license under Section 11-1.103 of this Code. The City will not issue a business license until the required permits have been obtained under this chapter.

**Sec. 11.13.050 Taxicab Business and Taxicab Driver permits required; notice of change in location.**

(a) Except as otherwise provided in this chapter, no taxicab business that is substantially located in the City, may operate or permit the operation of a taxicab as a vehicle for hire, unless the taxicab business obtains, and continues to maintain, a current and valid taxicab business permit issued by the City.

(b) Except as otherwise provided in this chapter, no taxicab driver may drive a taxicab for a taxicab business that is substantially located in the City, unless the taxicab driver obtains, and continues to maintain, a current and valid taxicab driver permit issued by the City.

(c) A taxicab business shall notify the City no less than six (6) months prior to changing its substantial location from another jurisdiction to the City in accordance with Government Code section 53075.52.

**Sec. 11-13.060 Taxicab Business permit application.**

(a) A taxicab business desiring to obtain a permit must submit a permit application to the Director.

(b) The application must be signed under penalty of perjury and must include all the following:

1. The name, age, business address, residence of the applicant, if a natural person; or if a corporation, its name, date and place of incorporation, address of its principal place of business and the names of its principal officers, with their respective addresses; or if a partnership, association or unincorporated company, the names of the partners, or the persons comprising the association or company, with the place of business and residence of each partner or person.
2. The make, model, vehicle identification number and license plate number of each taxicab owned or leased by the taxicab business to be used in the City.
3. A certificate of inspection for each taxicab to be used in the City.
4. The street number and exact location from which each vehicle is to be operated.
5. A schedule of the rates of fares to be charged for carrying passengers. Rates may not exceed the maximum amount, if any, set by resolution of the City Council.
6. Whether or not the applicant has had any similar permit revoked by any agency or board, city, county or state, and if so, the circumstances of the revocation.
7. The color scheme, name, monogram or insignia which the applicant proposes to use. The color scheme, name, monogram or insignia to be used upon the taxicab may not conflict with or imitate any color scheme, name, monogram or insignia used by another taxicab business in a manner so as to be misleading, or tend to deceive or defraud the public.
8. For a taxicab business receiving a permit in 2019 or a new taxicab business thereafter, a primary business address in the City will initially satisfy the trip data documentation requirement. A taxicab business must begin collection of trip data during its first year of operation.

9. A valid Department of Motor Vehicles registration for each taxicab to be used in the City showing that each vehicle is registered as a commercial vehicle.
10. A controlled substance and alcohol certificate for each taxicab driver; however, in the case of a self-employed, independent driver, the test results will be reported directly to the Police Chief.
11. Certificate of insurance and endorsements as required by this chapter.
12. Such further information as the Director or Police Chief may require.
13. The permit fee in an amount set by resolution of the City Council.

**Sec. 11-13.070 Taxicab Business permit; Issuance/denial; duration; transferability.**

(a) Upon receipt of an application for a taxicab business permit, the Director will forward the application to the Police Chief. The Police Chief will investigate and advise the Director whether a taxicab business permit may be issued if the Police Chief finds that the applicant has complied with all the applicable requirements of this chapter. If the Police Chief or Director finds that all applicable requirements have not been satisfied, then the permit may be denied.

(b) A taxicab business permit issued pursuant to this chapter remains in effect for one calendar year, unless revoked or renewed.

(c) A taxicab business permit may not be transferred.

(d) A taxicab business permit does not constitute a permit to drive a taxicab. Any person who wishes to drive a taxicab must also obtain a taxicab driver permit.

**Sec. 11-13.070 Taxicab Driver permit application.**

(a) A taxicab driver desiring to obtain a permit must submit a permit application to the Director.

(b) The application must be signed under penalty of perjury and must include all the following:

1. A letter from a prospective taxicab business substantially located in the City offering employment to the applicant as a taxicab driver, whether as an independent contractor or as an employee; a letter from a taxicab business substantially located in the City stating that the applicant is employed as a taxicab driver, whether as an independent contractor or as an employee; or a written statement from the applicant that he/she seeks to be a self-employed taxicab driver substantially located in the City.
2. Written proof of a negative controlled substance and alcohol test in accordance with the provisions of Section 11-13.080.
3. The name, date of birth, address, and telephone number of the applicant.
4. The names and addresses of the applicant's employers during the preceding three (3) years.
5. A statement or proof that the applicant has not been convicted of reckless driving, driving under the influence or a hit and run offense, within in the past five (5) years.
6. Proof that the applicant holds a valid Class 0 or Class 3 driver's license, a copy of which will be made by the City.
7. Two (2) photographs of the applicant at least two inches (2") by two inches (2") taken within four (4) months preceding the date of the application.

8. The business license or permit history of the applicant during the preceding ten (10) years, including whether such applicant has ever had any license or permit issued by any agency or board, city, county or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended and the reason (s) for the revocation (s).
9. All criminal arrests and statement of the dates, places, and disposition of any convictions from such arrests.
10. Completed, within thirty (30) days of the application, City provided live scan request form signed by live scan operator.
11. Such additional information as the Director or Police Chief may require.
12. The permit fee in an amount set by resolution of the City Council.

**Sec. 11-13.080 Controlled substance and alcohol testing program.**

(a) Every taxicab driver permit applicant either initial or renewal, must pass, with negative results, a controlled substance and alcohol test, in accordance with Government Code section 53075.5(b)(3), as may be amended from time to time. The results from a controlled substance and alcohol test for an applicant that is a self-employed independent driver must be reported directly to the Police Chief and made part of the application, and the Police Chief will notify the taxicab business of record of any positive results. All other results must be reported directly to the employing taxicab business, who must immediately notify the Police Chief of positive results. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(b) Testing procedures must be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver must show a valid California driver's license at the time and place of testing, and except as provided otherwise in Government Code Section 53075.5(b)(3).

(c) The controlled substance and alcohol test may be taken no more than thirty (30) days before the date the application is filed for a new permit.

(d) If any taxicab driver permit holder or applicant has taken a controlled substance or alcohol test with positive results, the taxicab business must immediately report such results to the Director.

(e) The taxicab business or self-employed independent driver will be responsible for all costs of the tests.

(f) The test results are confidential and will not be released without the consent of the tested driver or applicant, except as authorized by state or federal law, or required by a court order.

(g) No evidence derived from a positive test result under this section will be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(h) The City will provide the applicant with a list of testing providers certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that are in or near the City and known to the City.

**Sec. 11-13.090 Taxicab driver permit—issuance/denial.**

After reviewing the taxicab driver permit application, the Director will forward the application to the Police Chief. The Police Chief will investigate, conduct a background check, and inform the Director that a driver permit may be granted if the Police Chief finds that the applicant has complied with all the applicable requirements of this chapter. If the

Police Chief or Director finds that any of the applicable requirements of this chapter have not been satisfied by the applicant, the application may be denied.

**Sec. 11-13.100 Notice to applicants.**

(a) The Director will give written notice to the applicant for a taxicab driver permit or a taxicab business permit that the application is granted or denied. If the application is denied, the Director will include in such notice a statement of the grounds on which the application is denied.

(b) A taxicab driver permit will include the name of the permittee, a photograph of the permittee, the name of the employer, a statement that the permit is subject to the conditions imposed by Section 11-13.120 and the requirement that the permittee return the permit to the Director upon termination of the permittee's employment.

(c) A taxicab business permit will include the name of the permittee and a statement that the permit is subject to the conditions imposed by Section 11-13.110.

**Sec. 11-13.110 Conditions of taxicab business permit.**

Every person or entity issued a taxicab business permit shall comply with the following conditions:

(a) Display on the exterior of each taxicab the name or trademark of the person under whose authority the taxicab is being operated.

(b) Display on the left hand, bottom corner of the rear window, the City-issued decal for the current calendar year.

(c) Display on both exterior sides, exterior front, and exterior rear of each vehicle the taxicab business City assigned taxicab number.

(d) Display on both exterior sides and exterior rear of each taxicab the dispatch phone number of the taxicab business.

(e) Affix to each vehicle a top light to identify the vehicle as a taxicab.

(f) Display in the interior of each taxicab the sign required by California Vehicle Code section 27908.

(g) Adhere to the conditions set forth below regarding registration of taxicab service fares, fees and rates:

1. The taxicab business may set fares or charge a flat rate. The taxicab business may use any type of device or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the Business and Professions Code and with all regulations established pursuant to Section 12107 of the Business and Professions Code. If fares are calculated by meter, the meter must be sealed, visible to passengers at all times, and currently registered and inspected by a County of Merced Weights and Measures official.

2. The taxicab business must disclose fares, fees, or rates to the customer. A taxicab business may satisfy this requirement by disclosing fares, fees, or rates on its Internet website, mobile telephone application, or telephone orders upon request by the customer.

3. The taxicab business must notify the passenger of the applicable rate prior to the passenger accepting the ride for walkup rides and street hails. The rate may be provided on the exterior of the vehicle, within an application of a mobile telephone, device, or other Internet-connected device, or be clearly visible in either print or electronic form inside the taxicab.

4. A taxicab business may not prejudice, disadvantage, or require different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex, or any characteristic listed or defined in Section 11135 of the Government Code.

5. Collect from taxicab passengers only the amounts disclosed to the customer, plus any tip that the passenger offers.

6. Upon request give a receipt to any passenger after the driver has received full payment for a fare.

7. Notify the Director of any changes in rates or fares prior to such change taking effect.

(h) Obtain for each taxicab and keep in force during the term of the permit, public liability and bodily injury insurance as required by Section 11-13.150 of this chapter. Submit to the Director a current certificate of insurance.

(i) Obtain and keep in force during the term of the permit, worker's compensation insurance, covering all employees of the permittee. Submit to the Director a current certificate of insurance.

(j) Possess a valid City business license.

(k) Maintain each taxicab in safe operating condition, good repair, clean and sanitary condition, and in compliance with the California Vehicle Code.

(l) Participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of all taxicab drivers.

(m) Maintain a safety education and training program in effect for all taxicab drivers.

(n) Maintain a disabled access education and training program to instruct its taxicab drivers on compliance with the Federal Americans with Disabilities Act of 1990 and amendments thereto, and state disability rights laws, including making clear that it is illegal to decline to serve a person with a disability or who has a service animal.

(o) Obtain and submit to the Director a report no less than every twelve (12) months from the Department of Motor Vehicles for each employed taxicab driver. The taxicab business must verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of California Vehicle Code section 23152 or 23153.

(p) Obtain and submit to the Director a current report showing a prospective taxicab driver's current public record as recorded by the Department of Motor Vehicles. For purposes of this subsection, a report is current if it was issued less than thirty (30) days prior to the date the taxicab business employs the taxicab driver.

(q) Notify the Director immediately when any vehicle not described in the application for the permit is placed in service as a taxicab and submit the information about the vehicle and the certificate of inspection required by the application form.

(r) Notify the Director immediately on termination of a taxicab driver's employment. The taxicab driver permit will become void upon termination of the driver's employment.

(s) Require that each taxicab driver have a valid California driver's license and a valid City-issued taxicab driver permit.

(t) Comply with any other reasonable conditions imposed by the Director or Police Chief.

**Sec. 11-13.120 Conditions of taxicab driver permit.**

Every person who is issued a taxicab driver permit shall comply with the following conditions:

(a) Display the driver's photo permit in the taxicab in a place conspicuous from the passenger area.

(b) Take the most direct route possible which will carry the passenger safely and expeditiously to his/her destination.

(c) Grant the person engaging the taxicab exclusive right to the full and complete use of the passenger compartment.

(d) Immediately report a lost or stolen permit to the Director.

(e) Not allow any person to use or duplicate their permit. If a permit is found to be used by another individual, it will be considered a violation of this chapter unless the permit was previously reported as lost or stolen as provided in this section.

(f) If the taxicab driver is self-employed, comply with all the conditions of the taxicab business permit set forth in Section 11-13.110.

(g) Return the permit to the Director immediately upon termination of employment or self-employment. A taxicab driver permit will become void upon termination of employment or self-employment.

(h) Comply with any other reasonable permit condition imposed by the Director or the Police Chief.

**Sec. 11-13.130 Annual permit renewal.**

(a) Taxicab driver and taxicab business permits will continue in effect for the remainder of the calendar year in which they are issued, unless revoked or modified as provided in Section 11-13.140; provided, however, that taxicab driver permits will automatically become void on termination of employment or self-employment as a taxicab driver. A taxicab driver or taxicab business permit issued in the last quarter of a calendar year will continue in effect for the remainder of the calendar year in which it is issued, and for the next calendar year.

(b) Permittees must submit to the Director applications to renew taxicab driver and taxicab business permits for following calendar years, together with fees for the renewal and any changes in the information provided in the initial application or a previous renewal application. In addition, an applicant for renewal of a taxicab business permit must submit evidence that required insurance will be in effect for the new calendar year, a new certificate of inspection for each taxicab, and new trip data documentation for the prior calendar year. In addition, an applicant for renewal of a taxicab driver permit must submit proof of a negative test for controlled substances and alcohol as required by the City's controlled substance and alcohol certification program, a new photograph, and provide a document issued by the Department of Motor Vehicles, dated no more than ten (10) days before the application is submitted, showing that the applicant holds a valid, current California driver's license.

(c) The Director will refer to the Police Chief completed applications for renewal of taxicab driver and taxicab business permits. The Police Chief and the Director will process and grant or deny the applications for renewal as provided in Sections 11-13.060 - 11-13.100.

(d) Applications for renewal of taxicab driver and taxicab business permit must be submitted by December 1 of each year to allow sufficient time for processing before the current permit expires on December 31.

**Sec. 11-13.140 Permit—Suspension/modification/revocation.**

(a) A taxicab business permit or taxicab driver permit may be revoked or suspended or additional conditions imposed for failure of the permittee to comply with applicable laws, regulations and conditions, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.

(b) The Police Chief may file with the Director a written request for revocation, suspension or modification of a taxicab business permit or taxicab driver permit, stating facts showing that the permittee has not complied with applicable laws, regulations or permit conditions, has had a subsequent arrest, or poses a danger to public safety, and recommending that the permit be revoked or suspended or in what respect the permit should be conditioned.

(c) On receiving the request, the Director must mail to the permittee a notice that the permit is recommended for revocation, suspension or conditioning in a specific manner and stating the reasons for that recommendation. The notice must inform the permittee that the recommendation will be adopted, and the permittee will be deemed to concur with the recommendation if the permittee does not make a written request for a hearing in the manner provided in Section 11-13.190 of this chapter.

**Sec. 11-13.150 Insurance required.**

(a) It is unlawful for an taxicab business or taxicab driver to operate a taxicab unless there is in full force and effect a commercial automobile insurance policy of insurance in form as the City Attorney deems proper, executed by an insurance carrier company authorized to conduct business in the State of California and with an A.M. Best rating of at least A:VII or better, whereby the taxicab business and taxicab driver of each of the taxicabs operated under the permit are insured against liability for damage to property and for injury to or death of any person as a result of the ownership, operation or other use such taxicab vehicle.

(b) The minimum liability limits upon each taxicab vehicle shall not be less than one million dollars (\$1,000,000) combined single limit for bodily injury to or death of any persons and for damages to or destruction of property in any one accident. Such policy of insurance shall contain an endorsement providing that the policy shall not be canceled or materially modified until notice in writing has been given to the City, at least thirty (30) days immediately prior to the time such cancellation becomes effective. Further, such policy of insurance shall name the City, its officers, agents and employees as additional insured by separate endorsement. Any deviations from these requirements must be approved in writing by the City manager.

(c) Additionally, a taxicab business and taxicab driver shall indemnify, defend and hold harmless the City, its officers, agents and employees from claims arising from or alleged to arise from the negligence of the taxicab business or taxicab driver.

**Sec. 11-13.150 Schedule of fares.**

(a) The City Council may by resolution set the maximum amount of fares to be charged by a taxicab business.

(b) If the City Council has adopted a maximum fare schedule, no taxicab business or taxicab driver may impose a charge for the use of such taxicab other than that specified in the schedule of fares on file with the City Clerk.

(c) A taxicab business may file a written application with the City Clerk requesting a hearing before the City Council to increase the maximum fares. Such hearing will be scheduled no less than fifteen (15) days and no more than sixty (60) days from the date of the application. The application must contain the applicant's reasons and justification for the increase.

**Sec. 11-13.160 Stands.**

(a) Designation. The Council may, by resolution, locate and designate taxicab stands which, when so established, shall be appropriately designated "Taxis Only."

(b) Use. It is unlawful for the owner, driver, or operator of any taxicab to permit such taxicab to remain parked, while awaiting employment, except in a regularly established taxicab stand; provided, however, taxicabs may park in any available parking space when actually engaged in loading or unloading passengers.

**Sec. 11-13.170 Right to inspections.**

All taxicab permittees, drivers and other employees must submit taxicab vehicles, vehicle registration, proof of insurance, schedule of rates, meter calibration results, driver permits, and proof of alcohol and drug compliance records to the Director or Chief of Police or designee upon request. Any taxi found to be in an unsafe condition must be taken out of service immediately, and stay out of service until repaired.

All deficiencies found shall be corrected in the time frame given by the inspecting official.

Taxi service is a form of public transportation and as such it is a reflection on the local community. Therefore the appearance and cleanliness of all local taxis is a matter of public concern. Taxicabs that are found to be unkempt, aesthetically unpleasing or offensive shall be cleaned or modified to the satisfaction of the Director or Chief of Police. Failure to comply may lead to license revocation.

**Sec. 11-13.180 Violations: Penalties.**

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this chapter. Violation of this Chapter may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this Chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) The minimum fine for operating without a permit from the City in which the taxicab business is substantially located shall be five thousand dollars (\$5,000.00) per Government Code 53075.5(h)(9)(i)(2).

(d) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

**Sec. 11-13.190 - Appeals.**

(a) Except where an appeals or hearing procedure is otherwise set forth in this Chapter, a decision or action of the Director or Police Chief may be appealed by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within fourteen (14) calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's designee and shall give the appellant at least five (5) calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the appeal shall be final and conclusive in the matter.

Section 2. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 4. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

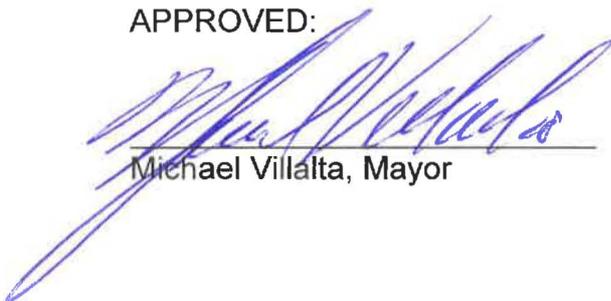
Section 5. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Lewis and seconded by Council Member Johnson-Santos on the 17th day of June 19, 2019.

Passed on the 17th day of July, 2019 by the following vote:

AYES: Council Members Faria, Johnson-Santos, Jones, Lewis,  
Mayor Villalta  
NOES: None  
ABSENT: None

APPROVED:



Michael Villalta, Mayor

ATTEST:



Lucille L. Mallonee, City Clerk