

# ADMINISTRATIVE REPORT

Date: June 28, 2011

Agenda Item No.: 5

Council Action Date: July 18, 2011

**To: RICK COLE, CITY MANAGER**

**From: JEFFREY LAMBERT, COMMUNITY DEVELOPMENT DIRECTOR**

**Subject: GENERAL CODE ENFORCEMENT AND SAFE HOUSING PROJECT  
ORDINANCES AND RESOLUTIONS**

## **RECOMMENDATIONS**

- a. Conduct a public hearing, introduce and waive the first reading of an ordinance 2011 Second Unit Amnesty and Legalization (attachment A) and set the second reading and adoption for July 25, 2011, and
- b. Waive the second reading and approve the ordinance "Building Records Disclosure" (attachment B) and
- c. Conduct a public hearing and approve a resolution amending the City's user fees for amnesty permits (attachment C), and
- d. Authorize the Finance and Technology Department to make the necessary adjustments to the fiscal year 2012 budget to reflect these changes.

## **PREVIOUS COUNCIL ACTION**

On June 20, 2011, City Council received public comment and directed staff to revise the proposed 2011 Second Unit Amnesty and Legalization ordinance such that a key zoning compliance cut off date was changed from 1987 to 2004. Staff has completed this work and is returning to City Council as directed.

On May 9, 2011, City Council received public testimony, discussed the desired specific content of a 2<sup>nd</sup> Unit Amnesty and Legalization Ordinance and gave staff specific direction to make edits to the draft ordinance and return in June of 2011 with an Ordinance for adoption.

On February 28, 2011, City Council received public testimony and gave staff direction to work collaboratively with the area real estate professionals organization in development of a Building Records Disclosure Ordinance and return in June of 2011 with an Ordinance for adoption.

Additional City Council history is provided in Attachment "D" of this report.

## **SUMMARY**

Between February and June of 2011, and after hours of extensive public comment, outreach and hearings, City Council has asked City staff to prepare the following Ordinances and Resolutions:

- An Ordinance that would allow legalization of qualifying, currently undocumented 2<sup>nd</sup> dwelling units.
- An Ordinance that would establish a local Building Records Disclosure Program that is supported by area realtors.
- A Resolution establishing the fees associated with the amnesty and the Building Records Disclosure ordinances.

## **DISCUSSION**

### **2011 Second Unit Amnesty and Legalization Ordinance**

The Community Development Department and City Attorney have drafted the attached Ordinance that allows legalization of qualifying, currently undocumented 2<sup>nd</sup> dwelling units, subject to specific conditions that reasonably maintain the desired integrity of the community.

This ordinance is written in an FAQ or "Cook Book" format that will be easy for the public to use. The Council's findings, for example, along with the definitions and enforcement provisions are in separate sections at the end of the ordinance. The ordinance begins with an extensive question and answer section, and is then broken down into a six-step compliance process.

Second, the ordinance treats second dwelling units built before 2004 differently from more recently constructed units. The difference is based upon the fact that the City current second dwelling unit regulations became effective in 2004. Moreover, more recently built units tend to be in newer neighborhoods where the second unit may not have as great a degree of compatibility with the surrounding neighborhood.

The ordinance allows second units put into service before 2004 exemption from the following current zoning standards:

- Setbacks - but will have to comply with fire-resistant exterior walls where required by code (see Step Five E of the ordinance).
- Covered parking
- Lot coverage
- Separate connection to City sewer or private septic system
- Associated fence heights

More recently established second units (2004 or newer) will have to comply with all current zoning standards, but, as directed by Council, will be able to seek a discretionary zoning modification if they do not meet all the requirements. The finding required for the zoning modification decision, which will be delegated to the Community Development Director, appealable to Planning Commission and on to the City Council, as follows:

Modifications may be allowed when not materially inconsistent with neighborhood physical character and context, as assessed after taking into account the impacts of any modification of the subject property upon neighboring properties.

### **Building Records Disclosure Ordinance**

Staff met with representatives from a local real estate association in April and May and agreed on the attached Ordinance that provides for:

- Buyer and seller acknowledgement of City report before close of escrow
- List of all pending, active, or expired building permits
- List of all open code enforcement cases
- List of all civil penalties and fees that are due or past due

Staff and the realtors' association representatives desire to promote consistency and predictability during the real property escrow process. With this in mind, the proposed Ordinance was modeled after the successful and familiar Building Records Disclosure program in place in the City of Oxnard. Please note that no inspection is mandated or required as part of this program.

The program consists of the following steps:

1. Once escrow is opened, the escrow officer requests a "Building Records Disclosure" from the City via an application form and user fee payment.
2. Within 7 days of receiving the application form, the City publishes and delivers the report to the party(ies) requested by the escrow officer.
3. Before the close of escrow, the report is signed by both the seller and the buyer and a copy is returned to the City for retention as a public record.

The "Building Records Disclosure" fee has been limited to only offset City costs associated with delivery of this service. Please see the following "User Fees Resolution" section for more fee information.

### **User Fees Resolution**

Attachment "C" of this report is a User Fee Resolution that is required by law any time the City desires to establish, adjust or eliminate a fee that is required by law to be paid to the City. User fees are different from taxes in that there must be a direct and logical relationship between the services that only the paying party receives and the cost to the City in providing that service. The most recent (2010) third-party, independent study of City service costs determined that the hourly rate for Construction Permits staff is \$145 / hour and Code Enforcement staff is \$115 / hour. (See "FY 2009-2010 Master Fee Schedule" available from the City Clerk or on-line at <http://www.cityofventura.net/ft> ).

The following new fee items are included in the attached Draft User Fee Resolution:

- 2<sup>nd</sup> Unit Amnesty & Legalization Permit Fee of \$580.00 (representing 4 hours of construction permits staff time)
- 2<sup>nd</sup> Unit Amnesty & Legalization Permit – Modification Fee of \$1,200.00
- 2<sup>nd</sup> Unit Amnesty & Legalization Permit – Application Fee to Appeal Director's Decision to Planning Commission of \$600.00
- 2<sup>nd</sup> Unit Amnesty & Legalization Permit – Application Fee to Appeal Planning Commission Decision to City Council of \$600.00
- Building Records Disclosure Fee of \$29. Additional time required (beyond the first 15 minutes) for complicated parcels or parcels with extensive permit records will be billed in 15 minute increments at \$29 per quarter hour.

### **CITIZEN ADVISORY GROUP REVIEW**

Community stakeholders, including members of the former Ventura Safe Housing Collaborative group and the Local Appeals Board have received a copy this report. Staff encouraged these stakeholders to submit all written comments and suggestions to the Community Development Director's office prior to Friday, July 15, 2011 so that their input could be distributed to City Council before the hearing.

## **PUBLIC COMMUNICATIONS / PUBLIC ENGAGEMENT**

An extensive amount of time and effort has been put toward receiving quality public input and reflecting what was received back to the public for confirmation. Please refer to prior City Council agenda items and reports on Safe Housing available at <http://www.cityofventura.net/meetings/council>.

## **FISCAL IMPACTS**

Approval of staff's recommendations will result in equitable enforcement of State and Local laws. With equitable enforcement is equitable quality of life, collection of property taxes, equitable recovery of water and sewer service costs, traffic impacts, parks and recreation costs, Fire Department maintenance costs, and local educational expenses.

Because the revenue of the 2<sup>nd</sup> Unit Amnesty and Legalization permits offsets only the service delivery cost incurred by the City, no net additional General Fund revenue will be realized from the permit fees collected.

The quantity of Director Decision Appeals made during the term of the 2<sup>nd</sup> Unit Amnesty and Legalization Permit program is impossible to estimate. Given that the proposed \$1,200.00 user fee for these appeals is far less than the anticipated cost (\$2,093), no additional General Fund revenue will be budgeted from the Director Decision Appeals fees collected. Planning service levels could be negatively impacted should the quantity of appeals exceed one per month.

Implementation of the proposed Building Records Disclosure Program will include a \$29 user fee. Total annual revenue for the Building Records Disclosure Program is estimated to be \$29,000 annually and will offset an estimated \$28,750 of Building Records Disclosure Program expenditures.

During the City Council May 9, 2011 discussions, the Council directed staff to consider and develop opportunities for financial assistance to 2<sup>nd</sup> unit amnesty participants to assist in the legalization of these as yet unpermitted units. Staff is developing public information to make available to these participants of existing programs and is researching other programs that may require further City Council action. These program opportunities will be scheduled for Council consideration within 3 months.

## **ALTERNATIVES**

City Council could choose any of the following alternatives:

1. Direct staff to implement additional or alternative recommendations that are not included in the proposed action plan
2. Direct staff to cease implementation of the Amnesty and Building Records Disclosure Ordinances and associated Resolution

Prepared by Andrew Stuffer, Chief Building Official  
For



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Jeffrey Lambert, AICP  
Community Development Director

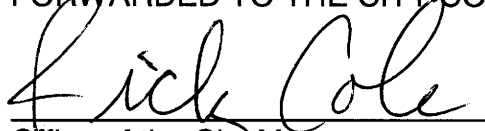
Reviewed as to fiscal impacts



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Jay Panzica  
Chief Financial Officer

FORWARDED TO THE CITY COUNCIL



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Office of the City Manager

## **ATTACHMENTS**

- A. 2<sup>nd</sup> Dwelling Unit Amnesty and Legalization Ordinance
- B. Building Records Disclosure Ordinance
- C. Resolution Setting Amnesty and Building Records Disclosure User Fees
- D. History of Prior City Council Safe Housing Actions

**ATTACHMENT A**

**2<sup>ND</sup> DWELLING UNIT AMNESTY AND  
LEGALIZATION ORDINANCE**

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**ORDINANCE NO. 2011-\_\_\_\_\_**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA ESTABLISHING A SECOND DWELLING UNIT AMNESTY AND LEGALIZATION PROGRAM**

The Council of the City of San Buenaventura does ordain as follows:

**Questions and Answers About This Ordinance**

**A. What is an ordinance?**

An ordinance is a law enacted by the City Council. It is enforceable by the City. It creates rights and obligations for the people and properties to which it applies.

**B. What does this Ordinance do?**

This Ordinance relaxes certain City requirements to make it easier for the owners of undocumented second dwelling units to bring them into compliance with building and zoning codes. This Ordinance allows the owners of undocumented second dwelling units to apply for *amnesty* and *legalization* of their property. *Amnesty* means that the owners of undocumented second dwelling units will be given the opportunity to bring their properties into compliance with relaxed City zoning requirements without fear of being criminally or civilly prosecuted by the City upon completion of the process. *Legalization* means that once a property has been issued final inspection approval under this Ordinance, the second dwelling unit will be considered legal for all purposes by the City. All future work must be completed in compliance with applicable laws, codes and regulations.

**C. How do I use this Ordinance?**

This Ordinance is written so that a property owner can follow it step-by-step as a checklist of the actions needed to legalize a second dwelling unit. There are six steps to follow. They are explained below. City staff are available to answer questions at (805) 654-7869, and the City's website has forms and information.

**D. How much will it cost to legalize my second dwelling unit?**

The application fee is \$580. In addition, you will need a licensed electrical and licensed general contractor to inspect your property and to complete any remedial building work that needs to be done. Finally, you will have to pay any development-related fees, such as water or sewer connection charges, that would have ordinarily been paid when your second dwelling unit

was originally placed into service (the "In-Service Date" which is defined later in this Ordinance). You will also have to pay applicable school fees charged by the Ventura Unified School District.

E. When do I have to apply?

This program will be in effect only until December 31, 2012. You must apply by that date. In addition, your contractor will need to complete any remedial work and receive final building inspection approval from the City by June 30, 2013.

F. What paperwork will I need?

You will need to complete and submit three kinds of paperwork: 1) a "Contractor Life Safety Inspection Checklist," 2), a "Zoning and Development Standard Checklist" and 3) "In-Service Date" documentation.

G. What is a "Contractor Life Safety Inspection Checklist?"

The Contractor Life Safety Inspection Checklist is a City-provided inspection checklist that will be completed by a licensed electrical contractor and a licensed general contractor that you hire. The same contractors will need to do any remedial or corrective work that is identified on the checklist (except in the case of contractors acting as "home inspectors" performing "home inspections" as those terms are defined in Business & Professions Code Section 7195 and requiring the inspecting contractor to do the work would violate Business & Professions Section 7197 because the home inspection is being done in connection with a transfer of the property). This checklist is important because it identifies the important life safety and habitability conditions that the City needs to review and approve your building permit.

H. What is a "Zoning and Development Standard Checklist?"

The Zoning and Development Standard Checklist is a collection of information about your property, including a sketch of the site plan, information about setbacks and parking, building heights, fences, drains, and other information about the physical layout of your property and the structures on it. It will be used by the City to document the condition of your property in official files.

I. What is "In-Service Date" documentation?

In-Service Date documentation is information that will let you establish when your second dwelling unit was originally placed into service. This may include things like County Assessor's records, escrow documents, utility bills, and building, planning and code enforcement records. This information is important for two reasons. First, the City's development-related fees you will

need to pay are based on the fees that were in effect on the date the second dwelling unit was originally placed into service (you will also have to pay school fees as charged by the Ventura Unified School District). Second, second dwelling units placed into service in 2004 or later will have to meet current zoning and development standards unless they receive a zoning modification approval.

J. Does it matter when my second unit was placed into service?

Yes. Older second dwelling units that were placed into service before 2004 when the City's second dwelling unit ordinance was adopted are exempt from compliance with many City zoning standards, like lot coverage and setbacks. Second dwelling units that were placed into service in 2004 or later will need to comply with current zoning standards, unless they receive a zoning modification approval. In addition, the City will charge the City development fees that were in effect on the date the second dwelling unit was placed into service, as well as any applicable Ventura Unified School District school fees.

K. Why is 2004 the cut-off date for zoning compliance?

Beginning in 2004, the City established zoning and development standards for second dwelling units in response to a new state law. In addition, undocumented second dwelling units in newer neighborhoods are more likely to be out of character with surrounding construction and harmful to the neighborhood.

L. What if my 2004 or newer second dwelling unit does not meet zoning standards?

The ordinance allows the owners of newer second dwelling units to seek a "modification" of zoning standards when to do so would not be materially inconsistent with the physical character and context of the neighborhood and when it would not negatively impact neighboring properties. A separate fee is charged for a zoning modification.

M. What if I apply for a permit but my property does not meet all the eligibility requirements under this Ordinance?

Applications made that do not meet the minimum eligibility requirements will be granted amnesty from fines and investigation fees, provided that they achieve compliance with the City's current standards by June 30, 2013.

N. If I have already removed my undocumented second dwelling unit under a City code enforcement's order or otherwise, can I apply under this Ordinance to restore the unit?

No. Only second dwelling units that existed as of February 28, 2011 and continue to exist may be legalized under this Ordinance. This date was chosen because it was the earliest date the City Council gave direction to staff on how to write this Ordinance.

O. How is this Ordinance organized?

This Ordinance is broken down into a six-step process. Start by reading the definitions in Section 8 beginning at page 9 because this section helps explain the most important and binding concepts in the ordinance. Then move on to the “steps” beginning in Section 1 at page 4. The six steps are:

Step One: Inspect the Second Dwelling Unit and Complete a Contractor Life Safety Inspection Checklist.

Step Two: Collect Documentation to Establish the In-Service Date of the Second Dwelling Unit.

Step Three: Complete a Zoning and Development Standard Checklist.

Step Four: Submit the Checklists and Documentation to the City with a Building Permit Application.

Step Five: City Review and Decision-making on the Second Dwelling Unit Amnesty and Legalization Permit Application.

Step Six: Issuance of the Building Permit and Final Inspection.

**Section 1. Step One: Inspect the Second Dwelling Unit and Complete a Contractor Life Safety Inspection Checklist.**

A. The first step in the Second Dwelling Unit Amnesty and Legalization process is to have a licensed electrical contractor and a separately licensed general contractor thoroughly inspect the second dwelling unit. The contractor(s) will then complete and sign a Contractor Life Safety Inspection Checklist on a City-approved form. This is an official document that must be completed truthfully.

B. The Contractor Life Safety Inspection Checklist will be used by the City to confirm that critical life safety and habitability requirements are satisfied by the Second Dwelling Unit, or to identify any remedial or corrective actions that are necessary to bring the Second Dwelling Unit into compliance.

C. The City will verify the life safety and habitability conditions and any remedial or corrective actions identified on the Contractor Life Safety Inspection

Checklist to the extent reasonably possible through a visual inspection before the final inspection is approved.

D. Owners should obtain estimates of the construction costs that will be incurred to complete any remedial or corrective actions identified on the Contractor Life Safety Inspection Checklist.

**Section 2. Step Two: Collect Documentation to Establish the In-Service Date of the Second Dwelling Unit.**

A. The second step in the Second Dwelling Unit Amnesty and Legalization process is to collect documentation to establish the In-Service date of the second dwelling unit. The In-Service Date is the date that the owner can show to be the date a structure was first occupied as a dwelling unit. The owner has the burden of proving the In-Service Date to the Chief Building Official by a preponderance of the evidence. The In-Service Date is important because it is used to determine the amount of the Development-Related Fees that must be paid to the City to legalize the second dwelling unit. School fees are determined by and paid to the Ventura Unified School District.

B. There are two ways an owner can establish the In-Service Date.

1. The In-Service Date may be established with at least one of the following forms of documentation:

- a. County Assessor's initial date recognizing the second dwelling unit
- b. Escrow documents
- c. Prior official building, planning or code enforcement records
- d. Real estate transfer disclosure forms for second dwelling units with a proposed In-Service Date after December 31, 1986.

2. The In-Service Date may be established with at least two of the following forms of documentation:

- a. Signed rental contracts for the second dwelling unit
- b. Income tax records clearly showing itemized second dwelling unit expenses
- c. Utility bills showing service specifically at the second dwelling unit address
- d. Sanborn maps, engineering maps or dated aerial photography showing the second dwelling unit structure
- e. Other reliable evidence, including but not limited to photographs or an owner's notarized affidavit submitted

under penalty of perjury, which tends to show the In-Service Date.

C. In addition to the documentation described in B.1. & B.2. above, the owner must also sign a notarized affidavit on a form provided by the City stating that the documentation used to establish the In-Service Date is to the best of their knowledge true, accurate and unaltered.

**Section 3. Step Three: Complete a Zoning and Development Standard Checklist.**

A. The third step in the Second Dwelling Unit Amnesty and Legalization process is to complete a Zoning and Development Standard Checklist.

B. The Zoning and Development Standard Checklist will be used to create a record of the structures and improvements on the property. It will also be used to make sure certain health and safety requirements are satisfied, including but not limited to the requirement for fire resistant exterior walls in certain situations.

C. Second dwelling units with In-Service Dates prior to 2004 shall be exempt from the General Requirements of the City's Residential Second Unit Regulations as established in San Buenaventura Municipal Code Section 24.430.020.

D. Second dwelling units with In-Service Dates in 2004 or later shall either comply with the General Requirements of the City's Residential Second Unit Regulations as established in San Buenaventura Municipal Code Section 24.430.020 (with the exception of Section 24.430.020 1. which restricts second units to the R-1 and R-P-D zones) or seek a Second Dwelling Unit Zoning Modification as provided in Section 7 of this Ordinance.

E. The owner should also consult with the Ventura Unified School District and the Ventura County Tax Assessor to determine the amount of the applicable school fees and property tax implications. This Ordinance requires payment of any applicable school fees as determined by the Ventura Unified School District prior to amnesty permit issuance.

**Section 4. Step Four: Submit the Checklists and Documentation to the City with a Building Permit Application.**

A. The fourth step is to submit the following materials to the City's Chief Building Official, along with a completed residential building permit application form:

1. Contractor Life Safety Inspection Checklist
2. In-Service Date documentation and notarized affidavit
3. Zoning and Development Standard Checklist
4. Acknowledgement of the owner's willingness and ability to pay all Development-related Fees and school fees that were applicable at the In-Service Date.
5. Second Dwelling Unit Amnesty and Legalization Permit fee.

B. City counter staff will include "Second Dwelling Unit Amnesty and Legalization Permit" in the description of work on the building permit application along with a description of any required remedial or corrective construction work identified on the Contractor Life Safety Inspection Checklist. This building permit will be known as the Second Dwelling Unit Amnesty and Legalization Permit.

**Section 5. Step Five: City Review and Decision-making on the Second Dwelling Unit Amnesty and Legalization Permit Application.**

A. The fifth step is City review and decision-making on the Second Dwelling Unit Amnesty and Legalization Permit application. The Chief Building Official is responsible for review and decision-making, except for Second Dwelling Unit Zoning Modifications, which will be decided by the City's Director of Community Development under San Buenaventura Municipal Code Chapter 24.505. Decisions of the Chief Building Official may be appealed to the local appeals board. Second Dwelling Unit Zoning Modifications shall be appealable to the Planning Commission and City Council pursuant to the procedures established in San Buenaventura Municipal Code Chapter 24.565, as further provided in Section 7A. of this Ordinance. This section 5 establishes the applicable review and decision-making criteria.

B. Second Dwelling Unit Amnesty and Legalization Permits will, to the greatest extent possible, be issued within five working days after the City receives a completed application. The City reserves the right, in extraordinary circumstances, to give more detailed review of the facts and circumstances for any particular application. If a Second Dwelling Unit Zoning Modification is sought by the owner, substantial additional time will be required in order to comply with scheduling requirements.

C. The Contractor Life Safety Inspection Checklist will be reviewed to confirm the life safety and habitability elements of a structure and to identify any remedial or corrective actions that are necessary for life safety code and habitability compliance. If remedial or corrective actions are required, the City will include a description of the necessary work on the building permit, when those actions are apparent from the Contractor Life Safety Inspection Checklist provided by the owner. Remedial or corrective actions that are identified after a City inspection will be noted and required on a revised building permit.

D. The In-Service Date documentation will be used to calculate the Development-related Fees that must be paid by the owner before issuance of the Second Dwelling Unit Amnesty and Legalization Permit. School fees will be determined by the Ventura Unified School District. The owner will be responsible for providing the City with proof that school fees have been paid prior to permit issuance.

E. The Zoning and Development Standard Checklist will be used differently depending upon whether the In-Service Date of the second dwelling unit is before 2004, or 2004 and later.

1. For second dwelling units with an In-Service Date before 2004, the Zoning and Development Standard Checklist will be used primarily to create a record documenting the condition of the property. Zoning and development standard non-conformities will be permitted to remain, except where those non-conformities conflict with the following life safety and habitability requirements:

- a. Fire resistant exterior walls where required by California Residential Code Section R302.
- b. Building drains cannot pass under other structures.
- c. Multiple building drains serving not more than 33 plumbing units may be connected to a single common sewer lateral.
- d. Existing fence heights may be retained provided they are no higher than 8'0."
- e. Existing single water meters may be used notwithstanding the multiple private meter requirement of San Buenaventura Municipal Code Section 24.430.020, 7.

2. For second dwelling units with an In-Service Date of 2004 and later, the Zoning and Development Standard Checklist will be used to determine and require compliance with the General Requirements of the City's Residential Second Unit Regulations as established in San Buenaventura Municipal Code Section 24.430.020.

a. If a second dwelling unit with an In-Service Date of 2004 or later is determined not to be in compliance with the General Requirements of the City's Residential Second Unit Regulations as established in San Buenaventura Municipal Code Section 24.430.020, the owner shall bring the second dwelling unit into compliance before final inspection of a Second Dwelling Unit Amnesty and Legalization Permit will be undertaken or completed. The owner may also seek a discretionary Second Dwelling Unit Zoning Modification pursuant to Section 7 of this ordinance.



**Section 6. Step Six: Issuance of the Building Permit and Final Inspection.**

A. The sixth step is City issuance of the building permit and final inspection upon completion of any required remedial or corrective work.

B. The building permit will be issued to the general contractor that signed the Contractor Life Safety Inspection Checklist upon payment of the permit fees, Development-related Fees and school fees. A different contractor may perform the work only if the inspecting contractor is acting as a "home inspector" performing a "home inspection" as those terms are defined in Business & Professions Code Section 7195 and when requiring the same contractor to do the work would violate Business & Professions Code Section 7197 because the home inspection is being done in connection with a transfer of the property. The Chief Building Official may allow deferral of City permit and Development-related Fees until final inspection is requested. Payment of school fees is administered by the Ventura Unified School District and cannot be deferred by the Chief Building Official.

C. Upon completion of any required remedial or corrective work, the licensed general contractor will call the City for a final inspection.

D. The City inspector's responsibility shall be limited to confirming visually the conditions reported on the Contractor Life Safety Inspection Checklist and satisfactory completion of any required remedial or corrective work.

E. If the City inspector determines that any remedial or corrective work has not been completed in a satisfactory manner, or that there are conditions present that should have been but were not identified on the Contractor Life Safety Inspection Checklist, the licensed general contractor will be advised of the corrective action needed. Corrective actions may include a report from a licensed professional engineer or other construction professional and any additional work required by the licensed professional(s).

F. Upon successful completion of the inspection, the inspector will approve the final inspection and the job card will serve as proof that the unit is now legal. A similar record will be made at City Hall for historical reference.

**Section 7. Second Dwelling Unit Zoning Modifications.**

A. Second Dwelling Unit Zoning Modifications may be granted by the City's Director of Community Development pursuant to the procedures in San Buenaventura Municipal Code Sections 24.505.030, 24.505.050, 24.505.060 and 24.505.090. The Director's decision shall be discretionary and shall be appealable to the Planning Commission and City Council pursuant to the procedures established in San Buenaventura Municipal Code Chapter 24.565.

B. The decision-making criteria governing the Director's exercise of discretion shall be as follows:

1. Modifications may be allowed when not materially inconsistent with neighborhood physical character and context, as assessed after taking into account the impacts of any modification of the subject property upon neighboring properties.

**Section 8. Definitions.** For the purposes of this Ordinance, the following words and phrases shall be defined terms having the meaning set forth below:

A. Contractor Life Safety Inspection Checklist means a City-approved form designed to facilitate an inspection by a licensed electrical contractor and a separately licensed general contractor in order to confirm the life safety and habitability elements of a structure and to identify any remedial or corrective actions that are necessary for life safety code and habitability compliance.

B. Development-related Fee means city, county, or state mitigation, connection or deficiency fees. School impact fees will be determined by the Ventura Unified School District.

C. Documentation Establishing In-Service Date means written or photographic documentation that reasonable persons would rely upon in the conduct of serious business affairs, which tends to prove the In-Service Date.

D. Eligible Second Dwelling Unit means one attached or detached second dwelling unit, as defined in San Buenaventura Municipal Code Section 24.110.650, on the same lot as an existing legal single-family residential structure that was constructed without benefit of known inspections and permits and which existed as of February 28, 2011.

E. In-Service Date means the date the owner can establish as the date a structure was first occupied as a dwelling unit.

F. Second Dwelling Unit Amnesty and Legalization Permit means a building permit, issued for an Eligible Second Dwelling Unit pursuant to this Ordinance, which has been given final inspection approval.

G. Second Dwelling Unit Zoning Modification means a minor modification of otherwise applicable development standards that may be allowed when not inconsistent with neighborhood physical character and context, as assessed after taking into account the impacts of any modification of the subject property upon neighboring properties.

H. Zoning and Development Standard Checklist means a package of materials including the following:

- 1) a sketched site plan of the property
- 2) address and Assessor's Parcel Number
- 3) current zoning designation
- 4) proposed lot coverage and setbacks
- 5) building heights
- 6) lot dimensions
- 7) proposed floor area and use of each structure
- 8) proposed on or off-street parking
- 9) any architectural requirements
- 10) fire resistant exterior walls where required by the California Residential Code Section R302
- 11) fence heights (which may not exceed 8'0")
- 12) location of existing water and sewer services
- 13) location of building drains.

**Section 9. Applicability.**

A. This Ordinance shall apply to Eligible Second Dwelling Units.

B. Exclusion for Annexed Second Dwelling Units. This Ordinance shall not apply to second dwelling units for which the owner can demonstrate that the first tax assessment as a dwelling unit precedes the date of annexation into the City and the Assessor's records indicate the permit number under which the second dwelling unit was first permitted. These annexed second dwelling units will be officially recognized as legal second dwelling units via a City-issued Certificate of Occupancy. Requests for Certificates of Occupancy shall be made to the Chief Building Official and shall include a copy of the Assessor's records used to meet this exclusionary provision.

C. Exclusion for Second Dwelling Units in the Pierpont Area. This Ordinance shall not apply to properties subject to Ordinance No. 77-13, adopted March 28, 1977. The boundaries of this area are shown on Exhibit "A" to this Ordinance, attached and incorporated by this reference.

**Section 10. Application and Final Inspection Time Limits.**

A. Any person who owns an Eligible Second Dwelling Unit (or their authorized representative) may apply for a Second Dwelling Unit Amnesty and Legalization Permit pursuant to this Ordinance until December 31, 2012.

B. Any person who has applied for a Second Dwelling Unit Amnesty and Legalization Permit must complete all required remedial actions and obtain final inspection from the City by June 30, 2013.

**Section 11. Relationship to Existing Code Requirements.**

A. The City Council intends this Ordinance to supersede any directly conflicting requirements of the San Buenaventura Municipal Code, except as otherwise provided.

B. This Ordinance shall not be construed to create any right, vested or otherwise, to establish or maintain undocumented second dwelling units, except upon final issuance of a Second Dwelling Unit Amnesty and Legalization Permit obtained through the processes established by this Ordinance.

C. Upon final issuance of a Second Dwelling Unit Amnesty and Legalization Permit obtained through the processes established by this Ordinance, the second dwelling unit shall be deemed a legal nonconforming structure which shall be subject to the nonconforming structure regulations of the San Buenaventura Municipal Code.

D. Second dwelling units that do not successfully receive final inspection approval by June 30, 2013, shall be subject to all current Development-related Fees, as well as any applicable civil and criminal penalties.

**Section 12. Interpretation, Forms and Regulations.**

A. If any question arises as to the interpretation of this Ordinance or potential conflicts between this Ordinance and other provisions of city, state or federal law, the Director of Community Development acting upon the advice and counsel of the City Attorney is authorized to issue an interpretation. The Director of Community Development may also seek an interpretation from the City Council.

B. The Chief Building Official is authorized to promulgate forms and regulations as deemed necessary to implement and interpret this Ordinance.

**Section 13. Violations and Penalties.**

A. Violations of this Ordinance shall be a misdemeanor prosecutable pursuant to San Buenaventura Municipal Code Section 1.150.010.

B. Violations of this Ordinance shall be subject to civil penalties pursuant to San Buenaventura Municipal Code Chapter 1.050.

**Section 14. Effective Period of this Ordinance; Amendments.**

A. No person shall apply for any permit pursuant to this Ordinance after December 31, 2012.

B. No permits issued pursuant to this Ordinance shall be given final inspection by the City after June 30, 2013.

C. This Ordinance shall remain in full force and effect after June 30, 2013 for the purposes of enforcement and interpretation of any permits issued by the City. All parts of this Ordinance, including the questions and answers, shall be effective and enforceable.

D. This Ordinance may be amended at any time. Any permit issued pursuant to this Ordinance shall be processed under the law in effect at the time a final inspection is requested so that any permit issued but not completed before an amendment of this Ordinance shall be subject to the amended terms of this Ordinance.

**Section 15. Findings, Determinations and Purposes.** The City Council finds and determines as follows:

A. In early 2009, City staff undertook a three-month pilot program during which 412 separate properties in a specified area of the City were inspected visually from the public right of way in order to record, and facilitate the abatement of, substandard buildings. Approximately 20% of the properties were observed to require abatement of minor to severe substandard conditions. Fifteen undocumented dwelling units were identified, amounting to about 3.6% of the observed properties. Since that time, as a result of unsolicited public inquiries and complaints, an additional 45 properties have been identified citywide as having undocumented dwelling units. The City Council finds that there are a significant number of undocumented dwelling units in Ventura. The City Council also finds that many undocumented, illegal second dwelling units are substandard in that they pose a threat to human safety as a result of construction methods and materials that do not meet current building and safety code requirements.

B. In May 2009, City staff recommended that the City Council approve a substandard housing program for all residential properties, including an amnesty program under which property owners could come forward to obtain permits for undocumented dwelling units without the risk of incurring civil penalties. In response, the City Council directed that staff suspend any "proactive" enforcement pending the development of additional civic engagement processes to gather community comment before any programmatic decisions.

C. In November 2009, the City Manager returned to the City Council with a recommendation to form a thirteen-member stakeholder group named the "Ventura Safe Housing Collaborative." The Collaborative was charged with "development of a framework for equity, civic engagement for community buy-in and outreach to a diverse and often voiceless community segment. The group

will also review other proven safe housing programs to gain a wider perspective to develop recommendations for a successful program. . . .”

D. On February 28, 2011, the Ventura Safe Housing Collaborative presented its final report to the City Council. City staff also presented a series of findings and recommendations responsive to the Collaborative report. These findings and recommendations, and the Collaborative final report, are set forth in an Administrative Report dated February 14, 2011.

E. The February 14, 2011 Administrative Report included, among other things, a staff finding that “many of the illegal dwelling unit property owners became frustrated with the expense and/or inflexibility of Zoning and Building laws and the mandatory costs to legalize their undocumented dwelling units. Several claimed that they purchased their property in this condition and felt that they should be allowed to ‘grandfather’ their undocumented dwellings/improvements without cost or penalty.”

F. As a result of the foregoing proceedings, reports, findings and recommendations, the City Council has determined that certain City-enacted or City-enforced zoning and building laws are indeed an impediment that causes many undocumented dwelling unit owners to fail to seek essential life safety and habitability inspections and permits for their properties.

G. While the City Council does not condone nor wish to encourage the construction of new undocumented dwelling units, it has concluded that the public health, safety and general welfare of the community would be promoted and enhanced by an amnesty and legalization program that would encourage the owners of undocumented second dwelling units to obtain necessary safety and habitability inspections and permits for existing improvements. These inspections and permits would increase the likelihood that currently undocumented second dwelling units would be free from hazardous electrical wiring, substandard plumbing such as improperly installed water heaters, and fire safety violations.

H. The City Council finds that an amnesty and legalization program would be consistent with and in furtherance of the City’s General Plan and the 2000-2006 Housing Element, adopted by Resolution 2004-014, which provides as follows:

“Goal 2: Facilitate the provision of a range of housing types to meet the diverse needs of the community. . . . Policy 2.7: Facilitate the provision of housing to address Ventura’s growing senior population, including senior housing with supportive services, assisted living facilities, and second units. . . . Policy 2.12: Facilitate the provision of second units as a means of providing affordable rental housing in existing neighborhoods. Ensure compatibility with the primary unit and surrounding neighborhood.”

I. The City Council has also determined that a reasonable and effective amnesty and legalization program must: 1) assure that the basic life safety and habitability requirements of state and city codes are satisfied, 2) assure that applicable City and school district development fees and charges are collected, 3) reasonably distinguish between undocumented second dwelling units put into service in 2004 or later (the year that the City adopted specific second dwelling unit development regulations), and 4) assure certainty by requiring undocumented dwelling unit owners to apply for amnesty and legalization no later than December 31, 2012 and to complete any necessary life safety remedial work by June 30, 2013.

**Section 16. CEQA Findings.**

The City Council further finds that this Ordinance is exempt under Section 15061(b)3 of Title 14 of the California Code of Regulations (the "State CEQA Guidelines") in that the enactment of this Ordinance merely implements an administrative process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly. Accordingly, it can be seen with certainty that the enactment of this Ordinance does not have the potential to result in significant effects on the environment. Moreover, this Ordinance is statutorily exempt from CEQA as provided in State CEQA Guidelines Section 15282 as the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.


PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Bill Fulton, Mayor

ATTEST:

\_\_\_\_\_  
Elaine Preston  
Interim City Clerk

APPROVED AS TO FORM

By  \_\_\_\_\_  
Ariel Pierre Calonne  
City Attorney

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**ATTACHMENT B**

**BUILDING RECORDS  
DISCLOSURE ORDINANCE**

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## ORDINANCE NO. 2011-

### **AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA ADDING SAN BUENAVENTURA MUNICIPAL CODE CHAPTER 6.700 TO REQUIRE THAT A REPORT OF CITY BUILDING RECORDS BE DISCLOSED TO THE BUYER AT THE TIME OF ENTERING INTO AN AGREEMENT FOR THE SALE OR EXCHANGE OF ANY BUILDING**

The Council of the City of San Buenaventura does ordain as follows:

Section 1. Chapter 6.700 is added to the San Buenaventura Municipal Code to read as follows:

#### Chapter 6.700 – Disclosure of Building Records Required Upon Building Resale

- Sec. 6.700.010. Intent.
- Sec. 6.700.020. Definitions.
- Sec. 6.700.030. Owner to Obtain; Period Valid.
- Sec. 6.700.040 Application; Fee; Content of Report.
- Sec. 6.700.050. Delivery of Report Prior to Sale.
- Sec. 6.700.060. Exemptions.
- Sec. 6.700.070. Forms; Time Limit.

Sec. 6.700.010. Intent. Pursuant to California Government Code Sections 38780, *et seq.*, it is the intent of the City Council to assure that the buyer of a building within the city is furnished a report of matters of city record pertaining to the authorized use, occupancy and zoning classification of real property prior to sale or exchange.

Sec. 6.700.020. Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. Agreement of Sale. Any agreement or written instrument which provides that any ownership or interest in title to any real property is to be transferred from one owner to another owner.

B. Building. Any improved real property designed, used or permitted to be used for dwelling, commercial or industrial purposes, situated in the city, and shall include the building or structures located on such improved real property.

C. Owner. Any person, copartnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

Sec. 6.700.030. Owner to Obtain; Period Valid. At the time of entering into an agreement of sale or exchange of any building, the owner or his authorized representative shall obtain from the city a report of the building record showing the regularly authorized use, occupancy and zoning classification of such property. Such report shall be valid for a period not to exceed six months from date of issue.

Sec. 6.700.040 Application; Fee; Content of Report.

A. Upon application of the owner, or his authorized agent, and the payment to the city of a fee as established by City Council resolution, the Building Official shall review pertinent city records and deliver to the applicant a report of building records which shall contain the following information insofar as it is available:

1. The street address and parcel number of subject property.
2. The zone classification and authorized use, as set forth in Chapter 34 of the SBMC.
3. The occupancy as indicated and established by permits of record.
4. Currently active variances, conditional use permits and other pertinent legislative acts of record.
5. Any special restrictions in use or development which may apply to the subject property due to Planning Division discretionary decisions.
6. Any known nonconforming and/or violations of building code or zoning regulations.

B. Such fees collected as provided for in this Section are intended only to cover the cost to the city for researching, preparing, and delivering the report of building records.

Sec. 6.700.050. Delivery of Report Prior to Sale. The report of building records shall be delivered by the owner, or his authorized representative to the buyer or transferee of the building prior to the consummation of the sale or exchange. The buyer or transferee shall execute a receipt therefore as furnished by the city, and the receipt shall be delivered to the City's Code Enforcement Manager as evidence of compliance with the provisions of the subchapter.

Sec. 6.700.060. Exemptions. The provisions of this subchapter shall not apply to the first sale of a building.

Sec. 6.700.070. Forms; Time Limit.

A. The Building Official shall prepare standardized forms for the report of building records. Such report shall be delivered to the owner, or his authorized agent, within seven calendar days of receipt of the application and fee; delivery shall be effected by certified mail or by the means requested and provided by the owner or his authorized agent.

B. If the city fails to deliver, or to attempt to deliver, such report within the seven-day period, the sale, if consummated, shall not be deemed in violation of this subchapter.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Bill Fulton, Mayor

ATTTEST:

\_\_\_\_\_  
Elaine M. Preston  
Interim City Clerk

APPROVED AS TO FORM

By: 

\_\_\_\_\_  
Ariel Pierre Calonne  
City Attorney

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**ATTACHMENT C**

**RESOLUTION SETTING AMNESTY  
AND BUILDING RECORDS  
DISCLOSURE USER FEES**

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## **RESOLUTION NO. 2011-**

### **A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA ADOPTING A REVISED SCHEDULE OF FEES FOR AMNESTY PERMIT PROGRAM AND RESALE REPORT PROGRAM**

BE IT RESOLVED by the Council of the City of San Buenaventura as follows:

SECTION 1: In compliance with City Council's policy on User Fees and Rates (FY 2009-10 Adopted Financial Policies), the Chief Financial Officer recommends the need to establish new fees to recover at least a portion of the cost of providing services. Most fees are rounded to whole dollar amounts for ease of application.

SECTION 2: The City Council finds that the recommended fees, rates, and service charges are reasonable in that they seek to recover the basic cost incurred to the City for delivery of the service provided. The City Council now desires to establish the City user fees set forth in this resolution and the attachment thereto.

SECTION 3: Based on the foregoing, Resolution 2010-016 entitled "A Resolution of the City Council of the City of San Buenaventura Adopting a Revised Schedule of Fees, Hourly Rates and Equipment Charges for Various City Services," adopted June 7, 2010, is amended as expressly provided by this resolution, but shall otherwise remain in effect.

SECTION 4: PLANNING FEES. Effective August 1, 2011, the fees collected by the Planning Division of the Community Development Department for the processing of 2011 Amnesty Permit Zoning Modifications and 2011 Amnesty Permit Zoning Modification Appeals, are hereby established as set forth in Exhibit A, attached hereto and incorporated herein.

SECTION 5: CONSTRUCTION PERMIT. Effective August 1, 2011, the fees collected by the Building and Safety Division of the Community Development Department for 2011 Amnesty permits and Resale Reports established as set forth in Exhibit A, attached hereto and incorporated herein. The Building Official may waive any fee in Exhibit A when in his/her opinion, an extreme economic hardship exists for the person(s) seeking the permit. The total value of fees waived in any fiscal year shall not exceed \$6,000.

SECTION 6: CEQA EXEMPTION. The City Council further finds that the setting or revising of fees pursuant to this Resolution is exempt from environmental review under Public Resources Code Section 21080(b)(8) of the California Environmental Quality Act, which provides an exemption for the establishment or modification of charges by public agencies, which the public agency finds are for the purpose of meeting operating expenses. Based on the record as a whole, the establishment or modification of fees, rates, or other changes pursuant to this Resolution, is entirely for the purpose of meeting operating expenses in that no recommended fee or fee increase

would recover more than 100 percent of the cost incurred by the City to deliver the service provided.

PASSED AND APPROVED this \_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Elaine M. Preston  
Interim City Clerk

APPROVED AS TO FORM

By: \_\_\_\_\_  
Ariel Pierre Calonne  
City Attorney

ATTACHMENT "D"  
EXHIBIT A

FEE NAME	PRIOR FEE	100% COST-RECOVERY FEE	PROPOSED FEE
Planning			
2011 Amnesty Permit Zoning Modification	N/A	2,093.89*	1,200.00
Appeal of 2011 Amnesty Permit Modification	N/A	1,080.00	600.00
Construction Permits			
Amnesty Permit	N/A	580.00	580.00
Code Enforcement			
Resale Report Fee – First 15-Minutes	N/A	28.75	29.00
Resale Report Additional 15-Minute Increments	N/A	28.75	29.00

\* Includes Categorical Exemption \$273.24 + Director's Permit \$1,459.08 + Public Hearing Notice \$361.66 fees.

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**ATTACHMENT D**

**HISTORY OF PRIOR CITY COUNCIL  
SAFE HOUSING ACTIONS**

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ATTACHMENT "D"  
EXHIBIT A

FEE NAME	PRIOR FEE	100% COST-RECOVERY FEE	PROPOSED FEE
Planning			
2011 Amnesty Permit Zoning Modification	N/A	2,093.89*	1,200.00
Appeal of 2011 Amnesty Permit Modification	N/A	1,080.00	600.00
Construction Permits			
Amnesty Permit	N/A	580.00	580.00
Code Enforcement			
Resale Report Fee – First 15-Minutes	N/A	28.75	29.00
Resale Report Additional 15-Minute Increments	N/A	28.75	29.00

\* Includes Categorical Exemption \$273.24 + Director's Permit \$1,459.08 + Public Hearing Notice \$361.66 fees.

## **ATTACHMENT D**

### **History of prior safe housing activities**

The City's 2008 focus on "What Matters Most" resulted in a focused effort on assuring safe housing for its citizens. Staff's outreach and stakeholder collaboration on a rental housing inspection program resulted in a 3-month long, pilot program, in 2009. During this pilot program, two City staff walked the streets of five different areas of the City to record, and facilitate abatement of, any substandard building violations observed at 412 different properties.

These five areas were selected based on their diverse geographical locations, their 45-55% tenant/owner occupant census block data, and their primarily residential land uses.

Roughly 80% of the properties observed were in compliance (not visibly substandard). The remaining 20% of the properties required abatement of minor-to-severe substandard violations. Fifteen (15) undocumented dwelling units were identified. The property owners that received Notice and Orders for these 15 properties have been, and remain, in abatement "limbo" during this amnesty period. Since the end of the proactive inspections, 45 properties, that have been reported and confirmed to be illegal dwelling units, have been afforded the same amnesty from fines and penalties pending City Council direction in this matter.

The two City staff that walked these five areas reported that most of the people they encountered were supportive of the proactive visual inspection of their neighborhoods. When a substantial exterior violation was observed, such as an illegal addition, garage conversion, or electrical hazard, City staff would knock on the door of the dwelling, introduce themselves, and request an inspection of the observed violation. A few property owners and occupants reported feeling intimidated by the proactive and systematic nature of these inspections and the ensuing documentation.

As staff processed these substandard properties through the City's standardized code enforcement system, many of the illegal dwelling unit property owners became frustrated with the expense and/or inflexibility of Zoning and Building laws and the mandatory costs to legalize their undocumented dwelling units. Several claimed that they purchased their property in this condition and felt that they should be allowed to "grandfather" their undocumented dwellings/improvements without cost or penalty.

In May 2009, City staff recommended that City Council approve a substandard housing program for all residential properties. At the request of several property owners, City Council directed the City Manager to enter into additional civic engagement before City Council would make programmatic decisions. This resulted in the November 2009 City Council action to establish the Ventura Safe Housing Collaborative group.

This 13 person Collaborative group was charged with conducting 3 Collaborative group meetings, 3 public workshops, preparing a June 2010 report for Planning Commission

(if necessary) and a June 2010 City Council report. City staff had a difficult time locating a Collaborative group facilitator and ended up facilitating the group meetings themselves in March of 2010.

In May of 2010, City staff responded to the Collaborative's request for additional time by seeking a City Council approved extension from June 2010 to November 2010. As of the date of this report, numerous Collaborative group meetings and 3 public meetings have been held. A Collaborative group published a preliminary report and public presentation on January 22, 2011. It is important to note that after reviewing the preliminary report and public presentation, the Collaborative group members were not entirely in consensus on the preliminary recommendations of their group.

Staff analyzed and classified each Collaborative recommendation into one of three categories:

1. Already in Place – Additional Public Education Needed
2. Not in Place – But Could Be Implemented Within Current Budget
3. Not in Place – Requires Additional Budget Allocations

Of the 56 Collaborative recommendations, 25 of them were already in place and classified as category 1 recommendations. 18 of the recommendations were in category 2 "Not in place but could be implemented without budgetary impact". Staff proposed to include 13 of these in the proposed action plan. Thirteen (13) of the recommendations could be implemented only with accompanying budget allocations. The action plan proposed implementation of 9 of these category 3 recommendations. When combined, 47 of the 56, or more than 80%, of the recommendations were proposed to be implemented in staff's safe housing action plan.

On February 28, 2011, City Staff and the Ventura Safe Housing Collaborative presented the final Collaborative report to City Council. After 5-hours of presentations, public comment, and City Council discussion, City Council directed staff to take specific actions and return on May 9, 2011. The official record of specific actions requested by City Council can be found at the City Clerk's office or on the Internet at <http://www.cityofventura.net/meeting/city-council-meeting-36> .