1	[Clean Village Ordinance.]		
2			
3	Draft ordinance adding Administrative Code Chapter 92 to declare San Francisco a		
4	"Clean Village," require that City-owned or leased buildings and human services		
5	organizations funded with public funds make restroom facilities available to members		
6	of the public, and establish a pilot public hygiene program; adding Health Code		
7	Sections 286.1 to 286.3 to prohibit public urination and defecation; amending Health		
8	Code Section 580 to clarify the definition of Responsible Party; amending Health Code		
9	Section 581 to define used hypodermic syringes as a nuisance; amending Public		
10	Works Code Section 174 to assign responsibility for the removal of hypodermic		
11	syringes and human excrement to the Department of Public Works; adding Park Code		
12	Section 3.19 to establish operating hours for restroom facilities operated by the		
13	Recreation and Park Department; amending Health Code Section 596 to establish		
14	penalties and outline enforcement; making findings; and setting effective dates.		
15	Note: Additions are <u>single-underline italics Times New Roman</u> ;		
16	deletions are <i>strikethrough italics Times New Roman</i> . Board amendment additions are <u>double underlined</u> .		
17	Board amendment deletions are strikethrough normal.		
18	Be it ordained by the People of the City and County of San Francisco:		
19	Section 1. The San Francisco Administrative Code is hereby amended by adding		
20	Chapter 92, encompassing Sections 92.1 and 92.4, to read as follows:		
21	Sec. 92.1 Title		
22	This Chapter shall be known as the San Francisco Public Hygiene Ordinance.		
23	Sec. 92.2 Findings and Declarations		
24	(a) The people of the City and County of San Francisco find that public hygiene is a top		
25	priority, that the quality of our lives is diminished when our streets and sidewalks are		

1		unclean, that individuals benefit from access to public hygiene facilities and that public
2		hygiene is a shared responsibility between individuals, nonprofit and for-profit
3		organizations and the government.
4	<i>(b)</i>	The people of the City and County of San Francisco find that we live together in a
5		interdependent community where only the sustained commitment and mutual respect of
6		all our residents, businesses and City departments will keep our neighborhoods clean.
7	<i>(c)</i>	The people of the City and County of San Francisco find that it is unreasonable to
8		expect property owners to be held liable for the containment, removal and disposal of
9		certain nuisances, such as hypodermic syringes and human excrement, and that
10		containment, removal and disposal of these nuisances are better handled by trained
11		personnel from nonprofit organizations or City departments than by individual property
12		owners and/or occupants.
13	( <i>d</i> )	Accordingly, the people declare San Francisco a Clean Village, and reaffirm our
14		collective responsibility to maintain public hygiene and cleanliness.
15	(e)	The people further declare that that City and County of San Francisco will provide basic
16		amenities to meet the public hygiene needs of all our residents, equip property owners
17		with tools to keep our village clean and harness the combined energies of City
18		departments and agencies to protect our common spaces, protect the public health and
19		promote the common good.
20	<u>Sec. 92</u>	.3 Public Access to Restroom Facilities in Government-Owned and Leased
21	<u>Buildings</u>	
22	<u>Effecti</u>	ive June 1, 2004, all City departments shall provide public access to as many restrooms in
23	public buildin	gs as is practicable, but in no event less than half of restrooms in each government-
24	owned or leas	sed building. By May 15, 2004, each department head shall send a statement certifying
25	that their Dep	partment is in compliance with the provisions of this Section to the Director of the

1	Department of Real Estate on a form to be promulgated by the Director of Real Estate or his or her
2	designee. By June 15, 2004, the Department of Real Estate shall provide to the Board of Supervisors
3	an inventory of restrooms in government-owned and leased buildings available for public use, and the
4	hours when these buildings are open to the public.
5	Effective January 1, 2005, nonprofit human services organizations funded in whole or in part by
6	the City and County of San Francisco shall be subject to the provisions of this Section.
7	Sec. 92.4 Public Hygiene Pilot Program
8	The City and County of San Francisco shall establish a pilot program to provide basic
9	amenities to meet the public hygiene needs of our most needy residents and inform property owners of
10	the new tools to help maintain our common spaces.
11	The Board of Supervisors' Office of the Legislative Analyst shall conduct a survey of
12	comparable jurisdictions to San Francisco and report to the San Francisco Board of Supervisors and
13	Director of Public Health by April 1, 2004 on best practices to promote public hygiene. Programs to
14	be considered include, but are not limited to, the Urban Rest Stop and Women's Wellness Center
15	administered by Seattle's Low-Income Housing Institute (LIHI).
16	The Director of Public Health shall develop a pilot program ("program") based on these best
17	practices and to the extent feasible, using existing resources. This program shall include, at a
18	minimum, showers, laundry facilities, restrooms and linkages to other services. The program's hours
19	of operation shall make it possible for a wide range of potential users to benefit. To the extent feasible,
20	this program shall have at least three sites, located in close proximity to the target audience. At least
21	one site shall be located in a traditionally underserved community. Appropriate outcome and process
22	objectives shall be developed that are specific to each site so that the program may be evaluated after
23	an initial 18-month period.
24	No later than April 30, 2004 a committee of the Board of Supervisors designated by the Board
25	President shall meet to consider the proposed program. If the proposed program requires additional

1	resources beyond those already appropriated to the Department of Public Health, the Finance
2	Committee shall meet no later than May 15, 2004 to consider an appropriation of funds for this project
3	and the Finance Committee and the Board of Supervisors shall make a determination as to the amount
4	and duration of a supplemental appropriation pursuant to Charter Section 9.103.
5	The program shall begin no later than July 1, 2004. A 10-member oversight and evaluation
6	committee comprised of community stakeholders shall be established. Five members of the committee
7	shall be appointed by the Director of Public Health and five members of the committee shall be
8	appointed by the Board of Supervisors. At least one member appointed by each appointing authority
9	shall be a consumer of the services, and at least two members appointed by each appointing authority
10	shall have expertise in program design and evaluation.
11	No later than 9 months from the initiation of the program, the committee shall issue preliminary
12	findings about the program. Areas of consideration shall include, but are not limited to, efficacy, cost
13	effectiveness, number of unduplicated clients served and customer satisfaction. No later than 16
14	months from the initiation of the program, the committee shall issue a final report with
15	recommendations about the program and proposed next steps.
16	No later than 11 months from the initiation of the program, the Board of Supervisors shall hold
17	a public hearing to consider the preliminary findings. No later than 17 months from the initiation of
18	the program, the Board of Supervisors shall hold a second public hearing and decide whether to
19	continue, expand or terminate the program.
20	Section 3. The San Francisco Health Code is hereby amended by adding Section 286,
21	to read as follows:
22	Sec. 286.1 Prohibit Public Urination and Defecation
23	No person shall urinate or defecate in or upon any street, park, school or schoolyard, public
24	sidewalk, public stairway or other pedestrian right-of-way, except in restroom facilities that may exist
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1	in these locations. Enforcement of this section shall be in accordance with Section 596 of the Health		
2	<u>Code.</u>		
3	SEC. 286.2 Reports of Public Urination and Defecation		
4	Any person may report acts of public urination or defecation to the Health Department in		
5	accordance with this Section.		
6	Any person may report human excrement to the Department of Public Works, and the		
7	Department of Public Works shall provide, without charge, for the containment, removal and disposal		
8	of human excrement, pursuant to Public Works Code Section 174.		
9	SEC. 286.3 Health Department Responsibilities		
10	The Health Department shall keep a record of all reports of public urination and defecation,		
11	and shall establish or cause to be established a telephone number where persons may make reports.		
12	The Health Department shall refer reports of public defecation to the Department of Public Works so		
13	that human excrement may be removed. The Health Department shall publish an annual report of		
14	public urination and defecation that has been reported.		
15	Section 4. The San Francisco Health Code is hereby amended by amending Section		
16	580, to read as follows:		
17	SEC. 580. DEFINITIONS		
18	Unless otherwise specified, for the purposes of this Article, the following terms shall		
19	have the following meanings:		
20	(a) "Department" shall mean the San Francisco Department of Public Health.		
21	(b) "Director" shall mean the Director of Public Health or his or her designee.		
22	(c) "Manager" shall mean the authorized agent for the Owner of a building,		
23	structure or property, who is responsible for the day-to-day operation of said building,		
24	structure or property.		
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1	(d) "Owner" shall mean any Person who possesses, has title to or an interest in,		
2	harbors or has control, custody or possession of any building, property, real estate, personalty		
3	or chattel, and the verb forms of "to own" shall include all those shades of meaning.		
4	(e) "Person" shall mean and include corporations, estates, associations,		
5	partnerships and trusts, one or more individual human beings, any department, Board or		
6	Commission of the City and County of San Francisco, and any agencies or instrumentalities of		
7	the State of California or the United States to the extent allowable by law.		
8	(f) "Responsible Party" shall include the Owner and/or Manager and/or any Person		
9	that created a condition that constitutes a nuisance as defined by this Article, except that the		
10	Owner and/or Manager shall not be held responsible for human excrement or used hypodermic		
11	syringes unless the Owner and/or Manager created the condition or failed to take reasonable steps to		
12	prevent the condition.		
13	Section 5. The San Francisco Health Code is hereby amended by amending Section		
14	581, to read as follows:		
15	Sec. 581. NUISANCE PROHIBITED.		
16	(a) No Person shall have upon any premises or real property owned, occupied or		
17	controlled by him, or her, or it any public nuisance.		
18	(b) The following conditions are hereby declared to be a public nuisance:		
19	(1) Any accumulation of filth, garbage, unsanitary debris or waste material or		
20	decaying animal or vegetable matter unless such materials are set out for collection in		
21	compliance with Section 283 of this Code;		
22	(2) Any accumulation of hay, grass, straw, weeds, or vegetation overgrowth;		
23	(3) Any accumulation of waste paper, litter or combustible trash unless such		
24	materials are set out for collection in compliance with Section 283 of this Code;		

Any buildings, structures, or portion thereof found to be unsanitary

(4)

1	(5) Any matter or material which constitutes, or is contaminated by, animal or human
2	excrement, urine or other biological fluids;
3	(6) Any used hypodermic syringe;
4	(6)(7) Any visible or otherwise demonstrable growth of mold or mildew in the interiors
5	of any buildings or facilities;
6	(7)(8) Any pest harborage or infestation including but not limited to pigeons, skunks,
7	raccoons, opossums, and snakes, except for pigeon harborages that comply with Section
8	37(e) of this Code;
9	(8)(9) Any noxious insect harborage or infestation including, but not limited to
10	cockroaches, fleas, scabies, lice, spiders or other arachnids, houseflies, wasps and
11	mosquitoes, except for harborages for honey-producing bees of the genus Apis regulated by
12	the California Food and Agriculture Code Sections 29000 et seq. which are not otherwise
13	determined to be a nuisance under State law.
14	(9)(10) Any article of food or drink in the possession or under the control of any person
15	which is tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or drunk.
16	The term "food" as used in this subparagraph includes all articles used for food and drink by
17	humans, whether simple, mixed or compound.
18	(10)(11) Any lead hazards which are within the control of the Owner or Manager of the
19	building, structure or property. Unless otherwise stated in this Article, the term "lead hazards"
20	as used in this subparagraph shall have the same meaning as that set forth in Section 1603 of
21	this Code. For the purposes of this subparagraph, the term "children" as used in Section
22	1603 of this Code shall mean any person who is up to 72 months of age. For the purposes of
23	this subparagraph, any paint, both interior and exterior, found on buildings and other
24	structures built before 1979 is presumed to be lead-based paint, such presumption may be
25	rebutted by competent evidence demonstrating that such paint is not lead-based paint;

1	(11)(12) Any vacant lots, open spaces, and other properties in the City and County of
2	San Francisco, which become infested with poison oak (Toxicodendron diversilobum) or
3	poison ivy shrub (Rhustoxicodendron) hereafter referred to as poisonous growth;
4	(12)(13) Any violation of Section 37 of this Code;
5	(13)(14) Any violation of Section 92 of this Code;
6	(14)(15) Any violation of Section 590 of this Article;
7	(15)(16) Anything else that the Director deems to be a threat to public health and
8	safety.
9	Section 6. The San Francisco Public Works Code is hereby amended by amending
10	Section 174, to read as follows:
11	Sec. 174. NUISANCE
12	No person, firm or corporation, including but not limited to any department, board or
13	commission of the City and County, shall have or permit upon any public sidewalk, public
14	stairway or other right-of-way for public pedestrian travel that abuts property owned or
15	occupied such person, firm, or corporation, any nuisance detrimental to health or any
16	accumulation of filth, garbage, decaying animal or vegetable matter, waste paper, hay, grass,
17	straw, weeds, vegetation overgrowth, litter, trash, cigarette or cigar butts, unsanitary debris,
18	waste material, <u>used hypodermic syringes</u> , animal or human excrement, or stains, marks or
19	grime caused by oil and other wastes absorbed or compressed into the surface, or any other
20	matter that constitutes a threat to public health and safety. For purposes of this Section, the
21	owner and/or the occupant of the premises or unit nearest the public sidewalk, public stairway
22	or other pedestrian right-of-way shall be held liable for the cleanliness of said public sidewalk,
23	public stairway, or other pedestrian right-of-way that abuts the building.
24	Effective immediately, owners and/or occupants shall not be held liable for the containment,

removal, and disposal of any matter or material which constitutes, or is contaminated by, animal or

1	human excrement, urine, or other biological fluids, and used hypodermic syringes. The proper		
2	containment, removal, and disposal of these nuisances shall be the responsibility of the Department of		
3	Public Works and performed in accordance with all relevant Health and Public Works Codes. The		
4	Department of Public Works shall provide containment, removal and disposal of these nuisances		
5	without charge to the owner and/or occupant within 6 hours of a report of the nuisance to the Director		
6	of the Department of Public Works, or his or her designee.		
7	Section 6. The San Francisco Park Code is hereby amended by adding Section 3.19,		
8	to read as follows:		
9	Sec. 3.19 ESTABLISHING OPERATING HOURS AND STANDARDS FOR PARK		
10	<u>RESTROOMS</u>		
11	By June 1, 2004, the Department shall provide to the Board of Supervisors an inventory of		
12	restrooms owned by the Recreation and Park Department and an operations plan for each site. By July		
13	1, 2004, the Recreation and Park Department shall provide that all restrooms are open, sanitary and		
14	available to members of the public from at least 8:00 AM to 10:00 PM, and shall provide adequate		
15	staffing and maintenance to ensure the public's hygiene, safety and comfort.		
16	By August 1, 2004, the Recreation and Park Department shall report to the Board of		
17	Supervisors on the feasibility of operating some or all restrooms for extended hours. Specifically, the		
18	Department shall advise on the feasibility of operating some or all restrooms on a 24-hour basis, and		
19	some or all restrooms from 8:00 AM until 2:00 AM on weekdays and 24 hours on weekends.		
20	Section 7. The San Francisco Health Code is hereby amended by amending Section		
21	596, to read as follows:		
22	SEC. 596. ENFORCEMENT.		
23	(a) Complaints. Whenever a written or oral complaint is made to the Department		
24	that a nuisance as defined by Section 581 exists in a building or structure or on a property, the		
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- Director shall inspect the building, structure or property to verify the existence of a nuisance thereon.
  - (b) Notice to Abate. Whenever the Director determines that a nuisance, as defined by Section 581 of this Article, exists in a building or structure or on a property, the Director shall cause a Notice to Abate to be served either personally or by first class mailing to the Responsible Parties. If the Notice to Abate is served on the Owner by mail, it shall be mailed to the address that appears on the last assessment rolls of the City and County of San Francisco. If the Notice to Abate is served on the Manager by mail, it shall be mailed to the Manager's principal place of business or to the address of the building, structure or property. If the Notice to Abate is served on any other Person who created a condition that constitutes a nuisance, it shall be mailed to the Person's last known address at which such Person receives mail if ascertainable. Thereafter, the Director may cause a copy thereof to be posted in a conspicuous place on the building, structure or property. The failure of the Responsible Parties to receive such notice when sent in the manner set forth in this Subsection shall not affect in any manner the validity of any proceeding against that party under this Article except that for Parties who report no fixed address the time to respond shall be doubled.
    - (c) Contents of Notice to Abate.
  - (1) The notice shall state with reasonable specificity a description of the nuisance such that the Responsible Parties can reasonably understand the nature of the nuisance to be abated. The notice shall direct the Responsible Parties to abolish, abate, and remove the nuisance within a reasonable period of time set by the Director given the nature and severity of the nuisance and any other circumstances of which the Director is aware. Such time period shall not exceed 30 days.
  - (2) The notice shall further advise the Responsible Parties that if they fail to comply with the notice, the Director may: (A) hold a Director's Hearing to be held to consider whether

- it would be appropriate to issue a Director's Order to abate the nuisance and other
  appropriate orders as provided for in this Article or (B) cause the abatement and removal of
  the nuisance and the Owner shall be indebted to the City and County of San Francisco for the
  costs, charges, and fees incurred by the City and County of San Francisco by reason of the
  abatement and removal of such nuisance.
  - (3) The notice shall inform the Responsible Party that they may be liable for other charges, costs, including administrative costs, expenses incurred by the Department, fines, and penalties as provided for in this Article.
  - (4) The notice shall state the name, business address and telephone number of the Department staff who may be contacted regarding the building, structure or property in question.
  - (5) At the discretion of the Director and to assure lawful disposal of any items constituting a nuisance in whole or in part, the notice may contain a requirement that the Responsible Party abating the nuisance provide to the Director proof of lawful disposal of such items and the form of such proof acceptable to the Director.
  - (d) Action by the Director. If the nuisance is not abated and removed within the time period set forth in the notice, the Director shall either: (1) hold a Director's Hearing in accordance with this Section or (2) abate and remove the nuisance as soon as practicable. The Owner shall be assessed a re-inspection fee as provided in Section 609 of this Code to cover the Department's costs incurred to verify the abatement of the nuisance.
    - (e) Notice of Hearing.
  - (1) If the Responsible Parties failed to comply with the Notice to Abate, the Director may hold a hearing by serving a copy of the Notice to Abate, together with a notice of the time and place set for the hearing thereof, by personal service or by certified mail upon the Responsible Parties. The Director shall post a copy of the Notice to Abate, together with the

1 Notice of Hearing in conspicuous places throughout the building, structure or property. The 2 time fixed for the hearing shall not be less than 30 days after service and posting of the copy 3 of the Notice of Hearing; except in those circumstances where the Director has issued a 4 written determination that the nuisance constitutes a severe and immediate hazard to life, 5 health or safety, in which case the time fixed for the hearing shall not be less than 12 hours 6 after personal service and posting the Notice of Hearing. The Notice of Hearing shall inform 7 all persons interested to appear at the hearing to show cause, if any, why the building, 8 structure, or property should not be declared a nuisance or in the case where the Department 9 has abated and removed the nuisance, why a lien should not be placed against the property

In the case of unsanitary buildings, said notice shall also state that the hearing may result in the revocation of the certificate of sanitation, if any, and the mandatory vacation of occupants from the building.

(2) If the Notice of Hearing is served by certified mail on the Owner, the Director shall mail the Notice of Hearing to the address as it appears on the last assessment rolls of the City and County of San Francisco. If the Notice is served by certified mail on the Manager, the Director shall mail the Notice of Hearing to the Manager's principal place of business, if any, or to the address of the building, structure or property in question. If the Notice of Hearing is served by certified mail on any Person who created the condition that constitutes a nuisance, the Director shall mail the Notice of Hearing to the last known address of such Person at which it receives mail, if ascertainable. The failure of the Responsible Parties to receive such notice when sent in the manner set forth in this Subsection shall not affect in any manner the validity of any proceeding under this Article, except that for Parties who report no fixed address the time to respond shall be doubled...

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for the costs incurred by the Department.

- (f) Director's Hearing. A public hearing shall be held at the time and place designated in the Notice of Hearing. Subject to the procedures prescribed by the Director for the orderly conduct of the hearing, all persons having an interest in the building, structure or property in question or having knowledge of facts material to the Notice to Abate may present evidence for consideration by the Director. Any hearing conducted pursuant to this Section shall be electronically recorded.
  - (g) Director's Order.

- written order setting forth finding of facts and a determination based upon the facts found in the record whether or not a nuisance, as defined by Section 581, exists or had existed in the building or structure or on the property and if the Department abated and removed the nuisance, the costs of abatement and removal of the nuisance by the Department. The order shall be served on the Responsible Parties in the same manner as set forth in Subsection (e) of this Section and shall be served on all other parties who provided testimony at the hearing by first class mail if such parties request at or before the hearing that the order be sent to them.
- (2) Upon a finding that a nuisance exists in the building or structure or on the property, the Director shall require in the order the abatement of the nuisance within a specified time period not to exceed 30 days. The time period shall be determined based on the nature and severity of the nuisance and any other circumstances of which the Director is aware. The order shall state that, failure to abate and remove the nuisance will result in the abatement of the nuisance by the Department and that the Owner shall become indebted to the City and County of San Francisco for the costs, charges, and fees incurred by reason of the abatement and removal of such nuisance upon demand. The order shall inform the Responsible Parties that it shall be indebted to the City and County of San Francisco for all

- administrative costs incurred by the Department in the prosecution of the abatement action and that such costs are due upon demand. The order shall further state that failure to pay such costs, charges, and fees may result in a lien against the property. The order shall require the Responsible Parties to abate and remove the nuisance in compliance with all applicable federal, State, and local laws and regulations.
- (3) In the case where Director determines that a nuisance had existed and that the Department had abated and removed the nuisance, the order shall itemize the costs of abatement and removal and all administrative costs incurred by the Department. The order shall notify the Owner that a lien will be assessed against the property for any outstanding costs if the Owner fails to reimburse the Department for the costs incurred by the Department as a result of the abatement and removal of the nuisance within ten (10) days of the service of the order and that the lien shall also include additional charges for administrative expenses of \$1,000 or 10 percent of the costs of abatement and removal, whichever is higher, and interest at a rate of 1-1/2 percent per full month compounded monthly from the date of recordation of the lien on all fees and charges due as aforesaid.
- (4) The order shall advise the Responsible Parties that the order issued is final and of the Owner's right to petition the Superior Court of San Francisco for appropriate relief pursuant to Section 1094.6 of the California Code of Civil Procedures. The order shall notify the Owner that the filing of a petition with the Superior Court shall not automatically stay the effectiveness of the order or extend the time period in which the Responsible Parties have to abate the nuisance.
- (5) In case of an unsanitary building, the Director shall revoke the certification of sanitation, if the building is a hotel and may order the vacation of any unsanitary building for all purposes, and shall cause a copy of said order to be posted in conspicuous places throughout the aforesaid structure, building or part thereof determined by the Director to be a

1	nuisance, and a copy thereof is to be personally served upon the Owner thereof or his agent,
2	or the lessee or the occupant thereof. The order shall specify the time within which said
3	structure, building or part thereof determined by the Director to be a nuisance shall be
4	vacated. The order shall further advise that structure, building or part thereof vacated
5	hereunder shall not be reoccupied without the written permission of the Director. Such
6	permission shall be granted when the nuisance cited is abated within the time set forth in the
7	order.
8	(6) Notwithstanding any other provision of this Section, the Director may order only the
9	following penalties to Parties found liable for violation of Section 286 of this Code:

- following penalties to Parties found liable for violation of Section 286 of this Code:
  - For the first offense, up to 10 hours of community service, and the completion of no (a) more than 10 hours at a program designated by the Director to improve life skills.
  - (b) For the second offense, up to 20 hours of community service, and the completion of no more than 20 hours at a program designated by the Director to improve life skills.
  - (c) For any additional offense, the Director may order the offender to an inpatient or outpatient mental health or substance abuse treatment program at no cost to the offender for not more than 30 days. Prior to making this referral, the Director must make a finding that the offender is likely to significantly harm himself or herself or members of the public. The offender must be represented by counsel for this hearing, and may appeal this decision to the Superior Court. If the alleged offender cannot afford counsel, the Public Defender shall provide representation on a pro bono basis.
  - Failure to complete the penalties imposed by the Director in subsection 6(a) or 6(b)(d) shall also be cause for the Director to make the order outlined in subsection 6(c) in accordance with its procedures.
- (f) Regulations. The Director is hereby empowered to promulgate administrative regulations to implement the provisions of this Article and applicable provisions of State law.

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1	Section 8.	Effective Dates.
2	Unless othe	rwise specified, this ordinance shall be effective on July 1, 2004.
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