

City of Piedmont
Council Agenda Report

DATE: March 5, 2007

FROM: George Peyton, City Attorney

SUBJECT: **2nd Reading of Ord. 669 N.S. Relating to Indemnification of City Involving CEQA Litigation**

RECOMMENDATION:

Approve a second reading of Ord. 669 N.S. which will provide protection for the city against the expenses and liability relating to CEQA litigation.

BACKGROUND:

At your last meeting you had a first reading of the attached Ordinance. The only changes requested were by Council Member Barbieri in Section 1. Those changes have been made and are highlighted for your easy review.

CITY OF PIEDMONT

ORDINANCE NO. 669 N.S.

AN ORDINANCE OF THE CITY OF PIEDMONT AMENDING
VARIOUS SECTIONS TO THE PIEDMONT CITY CODE RELATING
TO INDEMNIFICATION OF THE CITY INVOLVING CEQA LITIGATION

The City Council of the City of Piedmont hereby ordains as follows:

SECTION 1.

The intent of the city council in enacting this Ordinance is to update the provisions of the Piedmont City Code relating to requiring applicants in planning, **wireless communication facilities**, subdivisions, and **all** other matters involving compliance with the California Environmental Quality Act to **defend**, indemnify **and hold harmless** the city, **its agents, officers and employees** in any legal action involving the California Environmental Quality Act relating to the application being filed.

SECTION 2.

Section 17.38 shall hereby be added to the Piedmont City Code to read as follows:

"SEC 17.38. INDEMNIFICATION AGREEMENT.

As a specific condition to granting all planning or other applications pursuant to this Chapter 17, which may involve approval under Government Code Section 66474.9, the applicant shall defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the city to attack the approval of an application under Gov. Code Section 66474.9, and as part of any application filed under Chapter 17 all applicant(s) or all persons having the authority to bind all persons or entities making an application shall execute a binding agreement to be approved and prepared by the city attorney to carry this condition out."

SECTION 3.

Section 17G.5 shall hereby be added to the Piedmont City Code to read as follows:

"SEC 17G.5 INDEMNIFICATION AGREEMENT.

As a specific condition to granting all wireless communications facility applications or other applications pursuant to this Chapter 17G, which may involve approval under Government Code Section 66474.9, the applicant shall defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the city to attack the approval of an application under Gov. Code

Section 66474.9, and as part of any application filed under Chapter 17G all applicant(s) or all persons having the authority to bind all persons or entities making an application shall execute a binding agreement to be approved and prepared by the city attorney to carry this condition out.”

SECTION 4.

A new Article XIV and a new Section 19.38 shall hereby be added to Chapter 19 of the Piedmont City Code to read as follows:

“ARTICLE XIV – CEQA REQUIREMENTS

SEC 19.38. INDEMNIFICATION AGREEMENT.

As a specific condition to granting all subdivision or other applications pursuant to this Chapter 19, which may involve approval under Government Code Section 66474.9, the applicant shall defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action, or proceedings against the city to attack the approval of an application under Gov. Code Section 66474.9, and as part of any application filed under Chapter 19 all applicant(s) or all persons having the authority to bind all persons or entities making an application shall execute a binding agreement to be approved and prepared by the city attorney to carry this condition out.”

SECTION 5.

This ordinance shall be posted at City Hall after its second reading by the city council for at least thirty (30) days and shall become effective thirty (30) days after the second reading.