

City of Woodland

**REPORT TO MAYOR AND CITY COUNCIL**

AGENDA ITEM

TO: THE HONORABLE MAYOR  
AND CITY COUNCIL

DATE: December 1, 2009

SUBJECT: Prohibition of Businesses and Uses Prohibited by State and Federal  
Law

**Report in Brief**

On November 5, 2009, the Woodland Planning Commission adopted a Resolution of Intention (**See Attachment A - Resolution of Intention**) to initiate the enactment of zoning amendments to prohibit businesses and uses prohibited by State or Federal law and recommended to the City Council approval of Municipal Code amendments to prohibit such businesses and uses (**See Attachment B - Municipal Code Amendments**). The adoption of these Municipal Code amendments will clarify that businesses and land uses that violate state or federal law are prohibited in the City of Woodland.

Staff recommends that the City Council consider the Planning Commission's recommendation to introduce, waive first reading and read by title only an ordinance to amend Chapters 13 and 25 of the Woodland Municipal Code to prohibit the establishment and operation of businesses and uses prohibited by state and federal law.

**Background**

On September 1, 2009, the Woodland City Council adopted an Urgency Ordinance Establishing a Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries and Other Illegal Uses. The adoption of the temporary moratorium on the establishment and operation of medical marijuana dispensaries, cooperatives and collectives, and other businesses and land uses that violate state or federal law gave the City time to study how best to regulate dispensaries and other land uses that are illegal under state or federal law. This action was extended on October 6, 2009 as the research on the most appropriate way to address this issue had not been completed during the 45-day period allowed by the Urgency Ordinance. The Council action on October 6 allowed the City to extend the Urgency Ordinance for a cumulative period of up to one year. However, staff, in collaboration with the Planning Commission, has completed the work required to present an ordinance to the City Council well ahead of the allowable time period.

It is important to note that cities throughout the state are currently receiving business license applications for businesses that are allowable under state law yet prohibited by federal law, or vice versa. Cities are also receiving applications from people wishing to operate stores to sell marijuana, purportedly for medicinal purposes. Some of these stores may possibly comply with state law; however, many do not and all violate federal law, which continues to prohibit the cultivation, use, purchase, and sale of marijuana for any purpose. The courts will ultimately resolve the ambiguity of the laws. However, in the meantime the attached ordinance should help the City avoid litigation that may potentially arise from the City's efforts to enforce inconsistent laws, especially as they pertain to the sale of marijuana.

### **Discussion**

The City's Municipal Code does not specifically recognize or regulate the establishment of businesses that may conflict with state and/or federal laws. As a means to address the potential establishment of businesses and uses that may contravene state and/or federal law, the attached ordinance has been prepared to prevent the establishment of businesses and land uses that are prohibited by either state or federal law. The attached ordinance would effectively prohibit any use of land or business establishment within the City of Woodland that is not permitted under both state and federal law, as well as businesses that cannot be operated without violating the Woodland Municipal Code. Among other business types, the ordinance would prohibit the operation of establishments selling marijuana and prevent waste haulers who operate in violation of the Municipal Code from obtaining business licenses.

In addition to prohibiting the establishment of businesses that conflict with state or federal law, the proposed ordinance clarifies that land uses which are inconsistent with state or federal law are not permitted in any zoning district within Woodland, and that no variance may be issued to allow such a use. In order to help remind applicants for business licenses that illegal businesses cannot obtain business licenses, the ordinance also requires anyone applying for a business license to certify that the operation of the business for which a license is sought will not violate state or federal law, or violate the Municipal Code.

Because there has been some public interest and confusion concerning this ordinance, it should be noted that the ordinance does not prohibit "qualified patients" who are eligible to use marijuana for medicinal purposes under state law from doing so. The ordinance is not inconsistent with California's laws regarding medical marijuana, and does not infringe upon any rights granted under those laws. The medical marijuana laws do not require cities to permit the operation of establishments selling marijuana, and are primarily intended to protect certain users of marijuana for medicinal purposes from criminal prosecution.

### **Fiscal Impact**

There is no direct impact on City funds in association with the recommended action.

**Public Contact**

Posting of the City Council agenda.

**Alternative Courses of Action**

1. Consider the Planning Commission's recommendation to introduce and read by title only an ordinance to amend Chapters 13 and 25 of the Woodland Municipal Code to prohibit the establishment and operation of businesses and uses prohibited by state and federal law.
2. Provide alternative direction to staff.
3. Take no action.

**Recommendation for Action**

Staff recommends that the City Council approve Alternative No. 1.

Prepared by: Paul L. Hanson, AICP  
Senior Planner

Reviewed by: Andy Morris  
City Attorney

Reviewed by: Cindy Norris  
Principal Planner

Reviewed by: Paul Siegel  
Deputy Director CDD

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Mark G. Deven  
City Manager

- Attachments:
- A. Resolution of Intention of the Woodland Planning Commission to Adopt A Text Amendment to Chapter 25 of the City Of Woodland Municipal Code to Prohibit the Establishment and Operation of Businesses and Uses Prohibited by State or Federal Law
  - B. An Ordinance of the City Council of the City of Woodland, California to Amend Chapters 13 and 25 of the Woodland Municipal Code to Prohibit the Establishment and Operation of Businesses and Uses Prohibited by State or Federal Law

**ATTACHMENT A**

RESOLUTION NO. PC 09-01

**A RESOLUTION OF INTENTION OF THE WOODLAND PLANNING  
COMMISSION TO ADOPT A TEXT AMENDMENT  
TO CHAPTER 25 OF THE CITY OF WOODLAND MUNICIPAL  
CODE TO PROHIBIT THE ESTABLISHMENT AND OPERATION OF  
BUSINESSES AND USES PROHIBITED BY STATE OR FEDERAL LAW**

**WHEREAS**, the Planning Commission recognizes the importance of allowing various and diverse uses of land, operations and businesses within Woodland; and

**WHEREAS**, the Planning Commission recognizes that certain uses of land, operations and businesses may be prohibited under state law or under federal law; and

**WHEREAS**, the Planning Commission wishes to ensure that all land uses, operations and businesses within the City are permitted under both state and federal law, in order to protect the health and welfare of residents and visitors to Woodland; and

**WHEREAS**, the City is in the process of amending the Woodland Municipal Code by amending various provisions of Chapter 13 to clarify that no business which is illegal under state or federal law may be licensed or operated in Woodland, and amending various provisions of Chapter 25 to prohibit in all zones land uses that are illegal under either state or federal law (collectively, the "Zoning Amendment"); and

**WHEREAS**, section 25-29-40 of the Woodland Municipal Code requires that any text amendment of Chapter 25 be initiated by a Resolution of Intention adopted by the City Council or Planning Commission; and

**WHEREAS**, a draft of the Zoning Amendment is attached to this Resolution of Intention as Exhibit "A" and incorporated by this reference; and

**WHEREAS**, subsection 2-7-21(4) of the Woodland Municipal Code authorizes the Planning Commission to recommend to the City Council that it adopt any ordinance concerning planning matters; and

**WHEREAS**, the Planning Commission desires to adopt this Resolution of Intention to initiate the enactment of the Zoning Amendment and to recommend the City Council enact the Zoning Amendment.

**BE IT THEREFORE, RESOLVED** by the Planning Commission of the City of Woodland, Yolo County, California that it hereby adopts this Resolution of Intention to initiate the enactment of the Zoning Amendment as required by section 25-29-40 of the Woodland Municipal Code.

**BE IT FURTHER RESOLVED** that the Planning Commission recommends that the City Council consider and enact the Zoning Amendment.

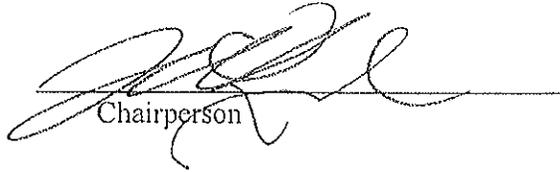
**ADOPTED** this 5th day of November, 2009, by the following vote:

AYES: Commissioners Wurzel, Murray, Lopez and Gonzalez

NOES:

ABSENT: Commissioners Barzo and Sanders

ABSTENTIONS:

  
Chairperson

Attest:

  
Secretary  
Dated: November 5, 2009

**Exhibit "A"**

**Draft Zoning Amendment**

**(Attached behind this page.)**

**Exhibit “A”**

**(See Attachment B for Draft Zoning Amendment)**

**ATTACHMENT B**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA TO AMEND CHAPTERS 13 AND 25 OF THE WOODLAND MUNICIPAL CODE TO PROHIBIT THE ESTABLISHMENT AND OPERATION OF BUSINESSES AND USES PROHIBITED BY STATE OR FEDERAL LAW**

**WHEREAS**, the City Council wishes to allow various and diverse uses of land, operations and businesses within Woodland; and

**WHEREAS**, the City Council recognizes that certain uses of land, operations and businesses may be prohibited under state law or under federal law; and

**WHEREAS**, the City Council wishes to ensure that all land uses, operations and businesses within the City are permitted under both state and federal law, in order to protect the health and welfare of residents of and visitors to Woodland;

**WHEREAS**, the City Council wishes to amend the Woodland Municipal Code by amending various provisions of Chapter 13 to clarify that no business which is illegal under state or federal law may be licensed or operated in Woodland, and amending various provisions of Chapter 25 to prohibit in all zones land uses that are illegal under either state or federal law (collectively, the "Zoning Amendment"); and

**WHEREAS**, the Zoning Amendment has been initiated by the adoption of a resolution of intention by the Planning Commission, pursuant to section 25-29-40 of the Woodland Municipal Code; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The City Council hereby adopts the recitals and findings set forth above and in the staff report prepared in connection with this ordinance.

**Section 2.** Section 13-1-14 of the Woodland Municipal Code is hereby amended to read as follows:

**"13-1-14 License required; illegal businesses prohibited.**

No person shall transact and carry on a business in the city without first procuring a license therefor, except that no license shall be required of any person for any mere delivery in the city of any property purchased or acquired in good faith from such person at his regular place of business outside the city, where no intent by such person is shown to exist to evade the provisions of this article. Notwithstanding any provision of this chapter, no person shall transact, perform, engage in and carry on in the city of Woodland any business, trade, profession, calling, use or occupation that cannot be, or is not, conducted or carried out

without being in violation of state or federal law, or this code, and no license will be issued for any such business, trade, profession, calling, use, or occupation.”

**Section 3.** Section 13-1-21 of the Woodland Municipal Code is hereby amended to read as follows:

**“13-1-21 Contents of application.**

The application, at minimum, shall contain:

- (1) The name, home address and telephone number of the applicant;
- (2) The name, address, and telephone number of the business to be licensed;
- (3) A certification by the applicant that the operation of the business for which the application is sought will not constitute a violation of any state or federal law, or of this code; and
- (4) Such other information as the collector reasonably may require.

**Section 4.** Chapter 25-2-40 of the Woodland Municipal Code is hereby amended to read as follows:

**“25-2-40 Compliance with laws and zoning regulations required.**

Notwithstanding any provision of this chapter or this code to the contrary, any land use that cannot be, or is not, conducted or carried out without being in violation of state or federal law, or of this code, is a prohibited use in all zones and specific plan areas, and no variance shall be issued for such a use. Except as otherwise provided in this chapter.

- (a) No building or part thereof or other structure, shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designated or intended to be used for any purpose, or in any manner other than is included among uses hereinafter listed as permitted in the zone in which such buildings, land or premises is located.
- (b) No building or part thereof or structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which said building is located.
- (c) No building or part thereof or other structure shall be erected, nor shall any existing building be altered, enlarged, rebuilt, or moved into any zone, nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard, building site area, and building location regulations hereinafter designated for the zone in which such building or open space is located.
- (d) No yard or other open space provided about any building for the purpose of

complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building, and no yard or other open space on one building site shall be considered as providing a yard or other open space for any other building site, except as otherwise provided in this ordinance.

**Section 5.** Section 25-4-10 of the Woodland Municipal Code is hereby amended by amending Table 1 to list uses which are illegal under state or federal law, or under this code, as a “not permitted” use in all zones, as shown in Exhibit “A” attached to this Ordinance and incorporated herein by reference.

**Section 6.** Section 25-13-10 of the Woodland Municipal Code is hereby amended by amending Table 2 to list uses which are illegal under state or federal law, or under this code, as a “not permitted” use in all zones, as shown in Exhibit “B” attached to this Ordinance and incorporated herein by reference.

**Section 7.** Based on the entire record before the City Council, and all written and oral evidence presented to the City Council, the City Council hereby makes and adopts the following findings, pursuant to section 25-29-01 of the Woodland Municipal Code:

The public necessity, convenience and general welfare require the adoption of the Zoning Amendment because: (i) the Zoning Amendment will help avoid the adverse secondary impacts created by certain types of businesses that are illegal under state or federal law, including burglaries and takeover robberies, robberies of customers leaving such businesses, an increase in crime in the vicinity of such businesses, illegal re-selling of products obtained from such businesses, employees of such businesses selling products to customers with obviously counterfeit identification cards, street dealers attempting to sell products to customers of such businesses, customers using products obtained from such businesses and then driving under the influence of such products, the sale of illegal products by such businesses, and sales of certain products to minors, that have been observed in communities where businesses that are illegal under state or federal law have been allowed to operate; and (ii) the Zoning Amendment will ensure that land uses that are illegal under federal or state law, or under the Woodland Municipal Code, are not established in Woodland.

**Section 8.** Adoption of this Ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines (14 CCR 15061(b)(3)). CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. It is therefore found and declared that the adoption of the regulations in this Ordinance will not have a significant effect on the environment.

**Section 9. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

**Section 10. Effective Date and Publication.** The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance to be posted or published as prescribed by law. This Ordinance shall take effect thirty (30) days following its adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Marlin H. Davies  
Mayor

**ATTEST:**

\_\_\_\_\_  
Sue Vannucci  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Andrew J. Morris  
City Attorney

**EXHIBIT "A"**

**TABLE 1 – Permitted Uses**

**Woodland Municipal Code Section 25-4-10**

**(The revised table is attached behind this page.)**

**ARTICLE 4**  
**RESIDENTIAL LAND USE TABLE**

SEC. 25-4-01      PURPOSE

The purpose of the Residential Land Use Table is to designate the residential uses permitted within each zone, subject to the development standards for such uses set forth in the articles describing those zones.

SEC. 25-4-10      TABLE 1 - PERMITTED USES

To determine in which zone a specific use is allowed:

1. Find the use in the left hand column.
2. Read across the table until either a "letter" or an "x" appears in one of the columns.
3. If a letter appears this means that the use is allowed in the zone represented by that column, but only if certain conditions are complied with. The conditions applicable to that use are those corresponding to the letter listed in Section 25-4-20.
4. If an "x" appears in a column the use is allowed in the zone represented by that column without being subject to any of the conditions listed in Section 25-4-20.
5. If neither a "letter" nor an "x" appears in a column, the use is not allowed in the zone represented by that column.
6. The Planning Commission shall interpret the appropriate zone for any land use not specifically listed in the Table, based on a finding of consistency with the purpose of the zone and that the use is of the same general character as that of the uses permitted in that zone.
7. Overlay zones are not included in table.

**TABLE 1  
RESIDENTIAL LAND USES**

USES	ZONE												
	A-1	O-S	R-1	R-2	N-P	R-M	C-1	CBD	C-2	ESD	C-3	C-H	I
Accessory buildings including guesthouses and uses customarily appurtenant to a permitted use.	x	x	x	x	x	x		m		n			
Apartments and multiple family dwellings					a	p		m	d	n	d		
Bed and Breakfast Inns					k			m	d	n	d	x	
Boarding and rooming houses					a	b		m	b	n			
<b>Businesses and uses prohibited by State or Federal law</b>													
Churches	d		d	d	d	d		m	d	n	d	d	
Day care centers			d	d	d	d	d	m	d	n	d	d	d
Duplexes			c	x	x	x		m	l	n	l		
Family day care homes/max of 14 children			x	x	x	x		x		n			
Family daycare homes with more than 14 children			d	d	d	d				n			
Foster homes, residential care homes			b	b	b	b				n			
Deep Lot Developments				g	g					n			
Home occupations	e		e	e	e	e		e		n			
Mobile homes on permanent foundations	h		h	h	h	h		h		n			
Mobile home parks	h		h	h	h	h				n			
Nursing and convalescent homes					a	d			d	n			
Public and Private Schools	d		d	d	d	d		m	d	n	d	d	d
Residence for a caretaker or watchman	i								i	n	i	i	i
Second dwelling unit			f	f	f	f				n			
Single family dwellings	x		x	x	x	x		m	l	n	l		
Split lot duplexes			c	x	x	x		m	l	n	l		
Temporary tract offices	j		j	j	j	j				n			

**EXHIBIT “B”**

**TABLE 2 – Permitted Uses**

**Woodland Municipal Code Section 25-13-10**

**(The revised table is attached behind this page.)**

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**ARTICLE 13**  
**COMMERCIAL LAND USE TABLE**

SEC. 25-13-01      PURPOSE

The purpose of the Commercial Land Use Table is to designate the commercial uses permitted within each zone, subject to the development standards for such uses set forth in the articles describing those zones.

SEC. 25-13-10      TABLE 2 - PERMITTED USES

To determine in which zone a specific use is allowed:

1. Find the use in the left hand column.
2. Read across the table until either a "letter" or an "x" appears in one of the columns.
3. If a letter appears this means that the use is allowed in the zone represented by that column, but only if certain conditions are complied with. The conditions applicable to that use are those corresponding to the letter listed in Section 25-13-20.
4. If an "x" appears in a column the use is allowed in the zone represented by that column without being subject to any of the conditions listed in Section 25-13-20.
5. If neither a "letter" nor an "x" appears in a column, the use is not allowed in the zone represented by that column.
6. The Planning Commission shall interpret the appropriate zone for any land use not specifically listed in the Table, based on a finding of consistency with the purpose of the zone and that use is of the same general character as that of the uses permitted in that zone.
7. Overlay zones are not included in table.

**TABLE 2  
COMMERCIAL LAND USES**

USES	A-1	O-S	R-1	R-2	N-P	R-M	C-1	CBD	EOZ	ESD	C-2	C-3	C-H
Accessory Buildings & Uses customarily Appurtenant To A Permitted Use							x	x	x	o	x	x	x
Adult Bookstores								m		o	i	i	
Adult Entertainment											i	i	
Adult Motels											i	i	
Adult Motion Picture Theaters								m		o	i	i	
Agricultural Uses, & Structures General, Except Commercial Animal Slaughter	x												
Airports	c												
Ambulance Service										o	x	x	
Antique Stores ≥ Than 4,000 Sq.Ft.									c	o			
Antique Stores										o			
Appliance Sales, Service, & Supply								m		o	x	x	
Auto Sales, New & Used, Including RV, Trailer & Motorcycles								m	c	o	c	c	c
Auto Rental Or Lease Agency, Including Truck & Trailer Rental & Limousine Service								m	c	o	d	x	c
Auto Parts & Accessory Store, Including Radio, Stereo, Or CB Shop								m	x	o	x	x	x
Auto & Truck Service Stations							c	m	x	o	e	x	x
Auto--Minor Service & Repair. Includes Such Uses As Tire Sales & Service Radiator Replacement; Brake Service; Diagnosis & Tune-Up; Glass Installation & Smog Inspection								m	x	o	c	x	x
Auto--Major Service & Repair. Includes Such Uses As Transmission Rebuild; Radiator Rebuild; Starter/Generator Rebuild; Body Repair; Paint Shop & Machine Shop								m	c	o	c	c	c
Auto-Lube Shop								m	c	o	c	c	c
Bakeries							x	m	d	o	x	x	d
Barber & Beauty Shops							x	m		o	x	x	
Bars, Cocktail Lounges, & Taverns								m		o	c	c	c

**TABLE 2  
COMMERCIAL LAND USES**

USES	A-1	O-S	R-1	R-2	N-P	R-M	C-1	CBD	EOZ	ESD	C-2	C-3	C-H
Bed & Breakfast Facilities								m	x	o	c	c	x
Boarding & Rooming Houses					a	b		m	x	o	b		
Bowling Alleys								m		o	c	c	c
Building Materials Sales Yard								m				c	
Bus Depot								m	c	o	c	c	c
<b>Businesses and uses prohibited by State or Federal law</b>													
Cabinet, Carpenter, & Woodworking Shops								m		o		c	
Cafes, Coffee Shops & Restaurants, Except Drive Through Facilities							x	m	x	o	x	x	x
Card rooms								m		o	c	c	
Car Washes									d	o	e	x	x
Cemeteries, Crematories & Columbian's	c	c											
Churches	c		c	c	c	c	c	m		o	c	c	c
Clothes Cleaning & Laundry Pick-Up Stations							x	m		o	x	x	
Commercial Recreation Facilities, Other Than Those Listed In Table 2							c		s	o	c	c	s
Communication & Public Utility Service Facilities								m		o	c		
Dance Halls								m		o	c	c	
Day Care Center									s	o			s
Drive-in, Fast Foods, Self Service, Take Out Restaurants									c	o	c	c	c
Drive-in Theaters	c											c	c
Drug Stores & Pharmacies							x	m	s	o	x	x	s
Electrical Sales, Service, & Supply										o	x	x	
Equipment Rental												c	
Farm Supply & Implement Sales & Service												c	
Film Processing Pick-Up Stations							x	m	s	o	x	x	s
Financial Institutions, Except Drive Through Facilities							x	m	s	o	x	x	s
Financial Institutions, With Drive Through Facilities									s	o			s
Fire Extinguisher Sales & Service										o		x	
Flea Markets										o		c	
Florists							x	m	x	o	x	x	

**TABLE 2  
COMMERCIAL LAND USES**

USES	A-1	O-S	R-1	R-2	N-P	R-M	C-1	CBD	EOZ	ESD	C-2	C-3	C-H
Food & Grocery Stores							f	m	s	o	x	x	s
Fortune telling								m			n	n	
Funeral Homes & Mortuaries								m		o	x	x	
Gift Shops, Curio						d	x	m	s	o	x	x	x
Glass Sales, Service, & Supply								m		o	x	x	
Golf Courses, Golf Driving Ranges	c	c											
Hardware Stores							c	m	s	o	x	x	s
Heating & Air Conditioning Sales, Service & Supply								m		o	x	x	
Heliports	c	c											
Hospitals						c				o	c	c	
Hotels & Motels/Bed & Breakfast, Inns								m	c	o	c	c	c
Hydraulic Equipment, Well Drilling Sales Service & Supply										o		c	
Janitorial										o		x	
Laundromats							x	m		o	x	x	c
Laundry, Dry Cleaning Facilities Pick-up									s	o	c	c	s
Liquor Sales, On Off Sale							d	m	d	o	c	c	d
Live / Work Units										o			
Locksmiths							x	m		o	x	x	
Machine Shops										o		c	
Massage Establishments								m		o	j	j	
Medical & Dental Clinics						c		m		o	x	x	
Medical Laboratories						c	c	m		o	x	x	
Mini Marts							c	m	k	o	k	k	k
Mini-Storage Facilities (SE Area Only)									c				
Mini-Storage Facilities										o		c	c
Miniature Golf								m		o		c	
Mixed-Use Commercial/Residential Developments								m		o	p	q	
Multi-Use Developments							h	m		o	h	h	
Newspaper / Publishing										o			
Nude Dancing Theaters											i	i	



