TITLE 5
Business Taxes and Permits

This title was most recently updated by the following ordinance:

Ordinance No.	Subject	Effective Date	Code Site
5677	Business Tax Exemption for Artists	January 15, 2015	Section 5.04.735

TITLE 5

BUSINESS TAXES AND PERMITS

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Chapter: 5.04 **Business Taxes**
Chapter: 5.06 **Business Tax Incentive, Etc.**
Chapter: 5.07 **Private Patrol Operators**
Chapter: 5.09 **Use of Tables on Public Sidewalks for Non-commercial Purposes**
Chapter: 5.15 **Motion Picture and Television Production**
Chapter: 5.16 **Motion Picture Operators**
Chapter: 5.20 **Dance Permits**
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Chapter: 5.29 **Paratransit Service**
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Chapter: 5.32 **Peddlers**
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Chapter: 5.48 **Boxing, Sparring or Wrestling Matches**
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Chapter 5.01

TAX AND PERMIT INSPECTOR

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5.01.020 **Duties Generally.**

5.01.010 Authorization for Duties.

The Tax and Permit Inspector, who is under the supervision and control of the City Treasurer, shall perform all duties enumerated in Section 5.01.020 and such duties as may be prescribed for the Tax and Permit Inspector and set forth in Chapter 5.04, together with such other duties as may now or hereafter be prescribed by any other ordinance of the City. (Ord. 3760 §1, 1975.)

5.01.020 Duties Generally.

It shall be the duty of the Tax and Permit Inspector to:

(1) Obtain, receipt for, and deliver to the City Treasurer, daily as received, all taxes and permit fees payable to the City, and to issue and deliver permits under the business permit chapters of the Santa Barbara Municipal Code;

(2) Investigate each new business commencing in the City so as to ascertain whether or not a bond, tax, or permit is required therefor, and the Inspector shall see to it that all legal requirements of the City are complied with in such matters;

(3) Investigate complaints pertaining to persons subject or allegedly subject to the City's Municipal Code relating to business taxes and permits, and require strict compliance with and observance of said sections of said Code;

(4) Keep full and complete records of all activities, action taken, tax receipts and permits issued and moneys received;

(5) Exercise all reasonably necessary and convenient police authority and powers necessary in the discharge and performance of the aforementioned duties. (Ord. 3760, §1, 1975.)

Chapter 5.04

BUSINESS TAXES

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5.04.010 Definitions.

As used in this chapter:

(1) "Person" means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, club, Massachusetts, business or common law trusts, societies and individuals transacting and carrying on any business in the City.

(2) "Business" means professions, trades and occupations and all and every kind of calling carried on for profit or livelihood.

(3) "Gross receipts" means the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service or employment of whatever nature it may be, for which a charge is made or credit allowed, whether or not such service, act or employment is done as a part of or in connection with the sale of goods, wares or merchandise. Included in "gross receipts" shall be all other receipts, cash, credits and property of any kind or nature except as hereinafter excluded, and any amount for which credit is allowed by the seller to the purchaser without any deduction therefor on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, losses or other expenses whatsoever. Excluded from "gross receipts" shall be cash discounts allowed and taken on sales, any tax which is measured by the sales price or the gross receipts from the sale or which is a stated sum per unit of such property sold, included in or added to the purchase price and collected from the consumer or purchaser; and such part of the sale price as is refunded either in cash or by credit; or any property given by the purchaser to the seller as part of the purchase price and so accepted by the seller for resale; amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected.

(4) "Vehicle" means and includes every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(5) "Real Estate Transaction" means the listing for sale, or acting as an agent in the purchase, transfer, exchange or sale of an interest in real property in return for a fee or commission.

(6) "Wholesale business" is defined to be every business conducted solely for the purpose of selling goods, wares or merchandise in wholesale lots to retailers for resale at retail.

(7) "Jobbing business" is defined to be every business conducted solely for the purpose of selling goods, wares or merchandise in job lots to wholesale merchants for resale at wholesale.

(8) "Retail business" is defined to be every business conducted for the purpose of selling, or offering to sell, any goods, wares or merchandise other than as a part of a "wholesale business" and "jobbing business" as defined.

(9) "Manufacturer" means one engaged in making materials, raw or partly finished, into wares suitable for use.

(10) "Fixed place of business" means the premises in the City occupied for the particular purpose of conducting business there, separate and distinct from any other place of business, and regularly maintained for the purpose of attending to such business.

(11) "Real estate developer" means a person carrying on the business of acquiring, improving, selling and leasing or renting real property, with the words "acquiring", "improving", "selling" or "leasing or renting" having the following meanings:

A. "Acquiring" means purchasing those estates in real property listed in C. below, other than condominiums;

B. "Improving" means one (1) or more of the following and the preparatory planning for each: Demolition or substantial reconstruction of existing structures; grading; leveling; construction of streets and other facilities for the public benefit; construction of buildings and structures; and landscaping;

C. "Selling" means causing, as grantor, the vesting in a grantee of any of the following estates in real property: A fee simple; a fee simple determinable; a fee simple subject to a condition subsequent; a life estate; or a condominium;

D. "Leasing or renting" means any agreement, written or oral, giving rise to the relationship of landlord and tenant, hotel keeper and guest, or any other relationship by which use of realty and appurtenances is provided for compensation, for any period or length of time. It is confined to construction comprising three (3) units or more, but includes the use of any such construction, whether constructed by a contractor or owner-builder.

(12) "Billboard" means any sign erected for the purpose of advertising a product, event, person or subject not related to the premises on which the sign is located.

(13) "Truck-tractor and semi-trailer" is considered a single vehicle, except that each trailer over one (1) drawn by a truck-tractor shall be separately considered for the purpose of measuring the tax required by this chapter.

(14) "Peddler" means and includes every person not having a fixed place of business within the City, who travels from place to place, or has a stand upon any public street, alley or other public place, doorway of any building, unenclosed or vacant lot or parcel of land, who sells, or offers for sale at retail any goods, wares or merchandise in his possession, provided that this definition does not apply to hobbycraft sales as exempted and defined in Section 5.04.691.

(15) "Commercial Rental" means the renting, leasing or subletting of real property, either improved or unimproved for any use except residential use. (Ord. 3951, 1978; Ord. 3450 §1, 1970; Ord. 3196 §1, 1966; Ord. 2975 §1(b), 1964; Ord. 2937 §1, 1963; Ord. 2930 §§1, 28(b), 29(b), 33(e), 1963.)

5.04.020 Conformance to Zoning.

No payment of tax under the provisions of this chapter shall be construed as permission to conduct or carry on a business at any place within the City where the conducting or carrying on of such business is prohibited by the Zoning Ordinance of the City. (Ord. 2937 §2(part), 1963; Ord. 2930 §1.1(a), 1963.)

5.04.030 Nuisance Prohibited.

No payment of tax under the provisions of this chapter shall be construed as permission to conduct or carry on a business in such a manner so as to create or maintain a nuisance. (Ord. 2937 §2(part), 1963; Ord. 2930 §1.1(b), 1963.)

5.04.040 Revenue Measure.

The ordinance codified in this chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation. (Ord. 2930 §2, 1963.)

5.04.060 Compliance Required by Businesses.

There are imposed upon the businesses specified and unspecified in this chapter taxes in the amounts prescribed, and it is unlawful for any person to transact and carry on any business in the City without first complying with any and all applicable provisions of this chapter, and each day such business is carried on without such compliance shall constitute a separate violation of this chapter. (Ord. 2930 §4(a), 1963.)

5.04.070 Businesses Not Listed - Fee.

Any person carrying on, either as principal or agent, any business in the City not herein specifically set forth shall pay the amount of the tax described herein provided for the business nearest corresponding to the nature of the business to be taxed. (Ord. 3747, 1975; Ord. 2930 §4(b), 1963.)

5.04.080 Branch Establishments - Separate Tax.

A separate tax must be paid for each branch establishment or separate place of business in which the business is carried on and each payment of tax shall authorize the payee to engage only in the business taxed at the location or in the manner designated in such receipt of payment, provided, that warehouses or businesses used exclusively in connection with and incidental to businesses taxed under this chapter shall not be deemed to be separate places of business or branch establishments to the extent of such exclusive use. (Ord. 2930 §5(a), 1963.)

5.04.090 Concessions.

Every person who operates any business, whether upon a cost, rental or commission basis as a concession or upon rented floor space in or upon the premises of any person taxed under any provisions of this chapter, shall be required to pay a separate and independent tax pursuant to the appropriate provisions, and shall be subject to all provisions of this chapter. (Ord. 2930 §5(b), 1963.)

5.04.100 Location Change - Tax Validity - Procedure.

A payment of tax under the provisions of this chapter shall be valid only for the business at the location for which the payment of tax was made and the receipt issued; provided, that upon notification made to the Tax and Permit Inspector of a proposed removal of such taxed business to a new location, when such move will be accomplished, and the address of such new location, such tax shall be valid for such business at the new location. (Ord. 2930 §6, 1963.)

5.04.110 Civil Liability - Action by City.

The amount of any tax imposed by this chapter shall be deemed a debt to the City, and any person carrying on any business without having paid a tax as herein required, shall be liable to an action in the name of the City in any court of competent jurisdiction, for the amount of tax by this chapter imposed on such business, together with all penalties then due thereon, and the sum of thirty-five dollars ($35.00) which, if judgment be recovered, shall be applied as attorney fees for the plaintiff and included and assessed as recoverable costs in the action. (Ord. 2930 §7(a), 1963.)

5.04.120 Mistake in Computation - Effect on Action to Collect.

In no case shall any mistake made by the Tax and Permit Inspector in determining the amount of the tax prevent, prejudice or estop the collection by the City of what shall be actually due from anyone carrying on a business subject to a tax under this chapter. (Ord. 2930 §7(b), 1963.)

5.04.130 Duty of Tax and Permit Inspector - Issuance.

It shall be the duty of the Tax and Permit Inspector to prepare and issue a receipt under this chapter to every person liable to pay a tax who pays the required tax, and to state in each receipt the period of time covered, the name of the person to whom issued, the business taxed and the location or place where such business is to be carried on. (Ord. 2930 §8(a), 1963.)

5.04.140 Transfer of Receipt Prohibited.

No receipt for payment of tax issued under any provisions of this chapter shall be in any manner transferred or assigned, or authorize any person other than is therein mentioned or named to do business. (Ord. 2930 §8(b), 1963.)

5.04.150 Duplicate Receipt - Fee.

The Tax and Permit Inspector shall make a charge of one dollar ($1.00) for each duplicate receipt issued to replace any receipt issued under the provisions of this chapter which has been lost or destroyed. (Ord. 2930 §8(c), 1963.)

5.04.160 Fee Payment in Advance.

All taxes shall be paid in advance. (Ord. 2983 §1(part), 1964; Ord. 2930 §9(a), 1963.)

5.04.170 Due and Payable - Renewal.

All taxes required to be paid under the provisions of this chapter shall be delinquent if not paid on or before midnight of the last day of the calendar month in which the tax period begins, as such tax period beginning is required to be set under the provisions of Section 5.04.190.

Effective January 1, 1979, all annual renewals shall occur during the month of January. In order to amend the renewal date of all existing annual taxes and to cause all new annual taxes to be due in the month of January, the Tax and Permit Inspector shall pro-rate the tax and issue licenses for new businesses and renewals for the remainder of the 1978 calendar year based upon the number of months remaining in 1978 at the time of renewal or initial application. Effective January 1, 1979, all new and renewal taxes and licenses shall be for the full year or the remainder of the year for those expiring before the end of the 1979 calendar year in order to have all annual taxes due in the month of January. (Ord. 3951, 1978; Ord. 2983 §1 (part), 1964; Ord. 2930 §9(c), 1963.)

5.04.180 Delinquent When.

All taxes required to be paid under the provisions of this chapter shall be delinquent if not paid on or before midnight of the last day of the calendar month in which the tax period begins, as such tax period beginning is required to be set under the provisions of Section 5.04.190. (Ord. 2983 §1(part), 1964; Ord. 2930 §9(c), 1963.)

5.04.190 Yearly Computation.

Except as provided in Section 5.04.170, all annual taxes required to be paid under the provisions of this chapter shall be computed upon a yearly basis, and receipts shall be issued so that the period covered by the tax begins on the first day of the month nearest to the date upon which the tax becomes due and payable. (Ord. 3951, 1978; Ord. 2983 §1(part), 1964; Ord. 2930 §9(d), 1963.)

5.04.210 Applications - When Made.

Every person who commences the transacting or the carrying on of business within the City, and who is required to pay a tax under the provisions of this chapter, shall make payment on or before the commencement of such business. (Ord. 2983 §2(part), 1964; Ord. 2930 §10(a), 1963.)

5.04.220 Application - Contents - Issuance.

Application forms shall be furnished by the Tax and Permit Inspector and shall require such information as will enable the Tax and Permit Inspector to properly classify the business and determine the amount of the tax to be paid by the applicant. Each applicant must correctly fill in one (1) of such application forms, sign the same and certify, under penalties of perjury, that the contents are true and correct. The completed applications shall be submitted to the Tax and Permit Inspector who shall compute the proper tax amount and on payment of such amount, and any accrued penalties, shall issue the appropriate receipt. (Ord. 2983 §2(part), 1964; Ord. 2930 §10(b), 1963.)

5.04.225 Application - Professionals Listed.

Every application for which a tax is imposed by Sections 5.04.420 or 5.04.430 shall include or be accompanied by a list setting forth the name of each professional person and each real estate broker, broker-salesman, salesman or agent who is included in the computation of the amount of the tax. (Ord. 3308 §1, 1968.)

5.04.230 Application - Estimates to be Included - Overpayment.

Upon application for the issuance of an initial tax certificate, in all cases where the amount of tax to be paid is measured by applying a specified rate or amount to:

(1) Increments of gross income; or
(2) Number and/or type of vehicles used; or
(3) Lineal feet of billboard; or
(4) Number of coin-operated machines; or
(5) Number of employees and/or agents; or
(6) Increments of building values on building permits;
(7) Number of real estate transactions; the applicant shall include in his application an estimate of the anticipated gross income, number and/or type of vehicles, lineal feet of billboard, number of coin-operated machines, number of employees and/or agents, or increments of building values on building permits, or number of real estate transactions, as is appropriate, which will be applicable to his business for the following twelve (12) month period. Such estimate, if accepted as reasonable, shall be used by the Tax and Permit Inspector in determining the amount of tax to be paid by such applicant during such twelve (12) month period; provided, however, that the amount of tax so determined shall be tentative only and such applicant shall, within twenty-eight (28) days after the expiration of the twelve (12) month period for which such estimate was made and taxes paid, submit to the Tax and Permit Inspector a certified or sworn statement upon a form furnished by the Tax and Permit Inspector, containing the actual gross income, number and/or type of vehicles, lineal feet of billboards, number of coin-operated machines, number of employees and/or agents, or increments of building values on building permits, or number of real estate transactions, as is appropriate, applicable to such person's business during the preceding twelve (12) month period. The taxes based upon such actual data shall be then finally ascertained and, if greater than amounts actually paid, the applicant shall pay the difference between the two (2) amounts. If such finally ascertained tax amount be less than taxes actually paid, such excess shall be credited against the tax required to be paid for the next year; or, if such excess shall be refunded to the payee upon his filing a claim therefor in the Finance Office within one (1) year from the expiration of the twelve (12) month period for which the taxes were paid. The Tax and Permit Inspector shall not issue to any such person another receipt for payment for the same or any other business until such person shall have furnished to him the written statement and paid the tax as required. (Ord. 3951, 1978; Ord. 2983 §3(part), 1964; Ord. 2930 §11(a), 1963.)

5.04.250 Fixed Sum Tax - Renewal.

Where there has been no change in the conduct, character or extent of business, any person required to pay a fixed sum annual tax under this chapter shall not be required to file a renewal application upon the expiration of the period for which such tax has been paid. (Ord. 2983 §4(part), 1964; Ord. 2930 §12(a), 1963.)

5.04.260 Variable Sum Tax - Renewal.

Any person required to pay an annual tax which is measured by applying a specified rate or amount to a variable factor, shall submit an application for renewal of such receipt of tax payment within twenty-eight (28) days following the expiration of the period for which such tax has been paid. The application for renewal shall be upon a form to be provided by the Tax and Permit Inspector, certified under penalties of perjury to be true and correct, setting forth such information concerning the applicant's business during the preceding year as may be required by the Tax and Permit Inspector to enable him to ascertain the amount of tax to be paid by such applicant for the renewal period. (Ord. 2983 §4(part), 1964; Ord. 2930 §12(b), 1963.)

5.04.270 Corrected Application and Statements.

The Tax and Permit Inspector may require a corrected statement or a corrected application to be filed for any period for which payment of a tax was made at any time within three (3) years from the expiration of such tax period in order to explain an unreasonable inconsistency between reported facts and facts gleaned from other sources. (Ord. 3951, 1978; Ord. 2983 §4(part), 1964; Ord. 2930 §12(c), 1963.)

5.04.280 Information Confidential - Disclosure.

The information furnished or secured pursuant to this chapter, except for the name of the applicant, the name and address of the business, and the nature of the business, shall be confidential. Any willful and unwarranted disclosure or use of such confidential information by any officer or employee of the City shall constitute a misdemeanor. (Ord. 2983 §5, 1964; Ord. 2930 §13, 1963.)

5.04.290 Failure to File Application - Tax and Permit Inspector's Powers to Determine.

If any person fails to file any required application or statement within the time prescribed, or if after demand made by the Tax and Permit Inspector he fails to file a corrected statement or a corrected application, the Tax and Permit Inspector may determine the amount of tax due from such person by means of such information as he may be able to obtain, adding any accrued penalties computed with respect to the determined tax amount. (Ord. 2983 §6(part), 1964; Ord. 2930 §14(a), 1963.)

5.04.300 Tax and Permit Inspector - Notice of Tax Determination and Penalties.

In case such a determination is made, the Tax and Permit Inspector shall give notice of tax determination, together with accrued penalties, by serving such notice personally upon the person liable for payment, or by depositing it in the United States Post Office at Santa Barbara, or a mail box, sub-post office, substation or mail chute, or other like facility regularly maintained by the Government of the United States, in a sealed envelope, postage prepaid, addressed to such person at his last known address. Service by mail is complete at the date of deposit, except that one (1) additional day within which such person may respond to such notice as required shall be allowed for every full one hundred (100) miles distance between the place of deposit and the place of address. (Ord. 2983 §6(part), 1964; Ord. 2930 §14(b), 1963.)

5.04.310 Failure to Pay Determined Amount - Hearing - Notice.

Within ten (10) days after service of the notice of tax determination, the person served may pay the determined tax amount, together with accrued penalties. If such person does not pay the determined amount, together with accrued penalties, on or before the expiration of such tax (10) day period, the Tax and Permit Inspector must cause the matter to be set for hearing before the City Council within twenty-one (21) days. Notice of hearing shall be served by the Tax and Permit Inspector upon such person at least ten (10) days prior to the date set for such hearing in the manner prescribed above for service of notice of tax determination. Upon the hearing, the Council shall consider all evidence produced, and written notice of its findings thereon, which findings shall be final, shall be served upon such person by the Tax and Permit Inspector in the manner prescribed above for the service of notice of tax determination. If the Council finds that the amount of tax due and unpaid is equal to or greater than the amount initially determined by the Tax and Permit Inspector, the Council shall add twenty dollars ($20.00) to the total of the amount of tax unpaid and accrued penalties to cover the cost of administration and hearing in the matter. (Ord. 2983 §6(part), 1964; Ord. 2930 §14(c), 1963.)

5.04.320 Accrual of Penalties.

Penalties upon the amount of taxes determined pursuant to Sections 5.04.290 - 5.04.310 shall continue to accrue and the amount of such accruing penalties shall be added from time to time to other amounts due until the entire amount due is paid in full. (Ord. 2983 §6(part), 1964; Ord. 2930 §14(d), 1963.)

5.04.330 Appeal of Decision of Tax and Permit Inspector - Hearing - Notice.

Any person aggrieved by any decision of the Tax and Permit Inspector or his delegate with respect to the payment of tax under the provisions of this chapter may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 2930 §15, 1963.)

5.04.340 Refunds.

All taxes shall be paid according to this chapter and no payee shall be entitled to the refund of any portion of the tax paid by reason of the termination of such taxed activity prior to the expiration of the term for which such receipt for tax payment shall have been issued. (Ord. 2930 §16, 1963.)

5.04.350 Enforcement of Chapter.

It shall be the duty of the Tax and Permit Inspector to enforce the provisions of this chapter and the Chief of Police shall render such assistance as may be required. (Ord. 2930 §17, 1963.)

5.04.352 Enforcement of Chapter - Subcontracting.

Any contractor, real estate developer or other person who obtains a permit from the Building Division or Public Works Department shall furnish to the Tax and Permit Inspector the names, addresses, and business tax numbers of all subcontractors, if any, who perform any of the work for which the permit was issued. They shall also furnish to him information as to the dates during which the subcontracting work is performed. (Ord. 3605 §1, 1973.)

5.04.354 Enforcement of Chapter - Real Estate Brokers.

Any real estate broker licensed to do business in the City shall furnish to the Tax and Permit Inspector the name, address, and current business tax certificate number of all salespersons who operate under the Real Estate Broker's State of California Broker's License. Said list shall be submitted annually on or before March 15. (Ord. 3951, 1978.)

5.04.360 Conviction Will Not Excuse Payment.

The conviction and punishment of any person for transacting any business without paying a tax shall not excuse or exempt such person from the payment of any tax due or unpaid at the time of such conviction, together with all penalties due as provided in this chapter and nothing herein shall prevent a criminal prosecution for any violation of the provisions of this chapter. (Ord. 2930 §18, 1963.)

5.04.370 Penalties for Failure to Pay Tax on or before Delinquency Date.

For failure to pay a tax on or before the delinquency date, the Tax and Permit Inspector shall add a penalty of ten percent (10%) and shall add an additional penalty of ten percent (10%) on the first day of each month thereafter; provided, that the amount of such penalty to be added shall in no event exceed one hundred percent (100%) of the tax to which the penalty rates herein provided for have been applied. (Ord. 3951, 1978; Ord. 2983 §7, 1964; Ord. 2930 §19, 1963.)

5.04.380 Tax Gross Receipts - Alcoholic Beverages Manufacture, Importation and Sale Receipts Exclusion.

Cocktail lounges, liquor stores, night clubs and other businesses required to pay a tax under the provisions of this chapter shall exclude from gross receipts reported to the Tax and Permit Inspector, and the Tax and Permit Inspector shall not require to be reported or consider as a part of such businesses' gross receipts, those gross receipts from the manufacture, importation or sale of alcoholic beverages.

This section shall be interpreted and construed so as to prevent conflict between the provisions of this chapter and Article XX, Section 22, of the California Constitution, and binding court interpretations and decisions relating to municipal taxation of alcoholic beverage manufacture, importation and sale within the State of California. (Ord. 2930 §20, 1963.)

5.04.390 Tax - Gross Receipts - Retail Sales and Miscellaneous - Classifications.

Every person carrying on business within the City and not otherwise specifically taxed by other provisions of this Chapter shall pay an annual tax based upon annual gross receipts at the following rates and in the following classifications:

CLASSIFICATION "A"

Automobile parts and accessories
Automobile servicing and repairs
Bakeries
Boarding and rooming houses (five or more guests)
Book stores
Cabinetmakers
Candy stores
Catalog merchandising
Cesspool services
Children's shops
Clothing
Coin operated machines
Electrical appliances and fixtures
Financial corporations (not banks) savings and loan, industrial loan; building and loan
Finance company (taxed as small loan business)
Floor coverings
Florists and nurseries
Fowl and animal feed and related products
Furnace cleaning
Furniture
Fur shops
General appliances
General merchandising
Gift stores
Gunsmiths
Haberdashers
Hardware
Janitorial services
Jewelers
Job printing
Laundries and cleaning agencies
Laundry, cleaning and dyeing plants (including self service facilities)
Locksmiths
Medicine and drugs
Men's wear
Milliners
Musical instruments and supplies
Motels and hotels (three (3) or more rental units
Motion picture theaters
Museums
Office supplies and equipment
Paint, glass and wallpaper
Photographers' supplies
Photographic studios
Piano sales and service
Plumbing fixtures and supplies
Radio or television stations
Refrigeration service
Repair shops and service
Retail oil - propane and butane distributors
Saddle shops
Secondhand stores
Shoe repairs
Shoe stores
Souvenir shops
Specialty stores
Sporting goods
Stationery stores
Tailors
Telephone answering service
Tire dealers
Tire repair and recapping
Trailer, recreational vehicle and mobilehome sales
Upholstery and carpet cleaning
Upholstery shops
Variety stores
Video arcades
Water softeners
Wearing apparel
Welding
Yard goods
And any other business not otherwise specifically provided for in this chapter

CLASSIFICATION "B"

Airplane sales and service
Automobile sales and service
Boat sales and service
Butcher shops
Cafes and restaurants
Caterers
Dairies
Delicatessens
Drive-in establishments
Food stores
Food vending
Garage storage
Grocery stores
Ice, retail
Lumber and building material
Milk bars
Service stations
Soda fountains

RATES

Annual Gross Receipts In Thousands	Annual Tax Classification "A"	Annual Tax Classification "B"
$ 0 - 20	$ 25	$ 25
20 - 25	31	25
25 - 30	35	25
30 - 35	37	28
35 - 40	39	30
40 - 45	41	31
45 - 50	43	32
50 - 60	45	34
60 - 70	49	37
70 - 80	53	40
80 - 90	58	44
90 - 100	64	48
100 - 125	75	57
125 - 150	91	68
150 - 175	106	80
175 - 200	120	90
200 - 250	142	107
250 - 300	168	126
300 - 350	195	146
350 - 400	221	166
400 - 450	242	182
450 - 500	266	200
500 - 600	292	219
600 - 700	325	244
700 - 800	360	270
800 - 900	374	281
900 - 1000	400	300

The annual tax on annual gross receipts in excess of one million dollars ($1,000,000.00) shall be as follows:

Classification "A": $400.00 plus $20.00 per $100,000.00 gross receipts or fraction thereof up to $3,000,000.00, plus $15.00 per $100,000.00 gross receipts or fraction thereof between $3,000,000.00 and $6,000,000.00 gross receipts or fraction thereof, plus $10.00 per $100,000.00 gross receipts or fraction thereof in excess of $6,000,000.00 gross receipts or fraction thereof.

Classification "B": $300.00 plus $20.00 per $100,000.00 gross receipts or fraction thereof up to $3,000,000.00, plus $15.00 per $100,000.00 gross receipts or fraction thereof between $3,000,000.00 and $6,000,000.00 gross receipts or fraction thereof, plus $10.00 per $100,000.00 gross receipts or fraction thereof in excess of $6,000,000.00 gross receipts or fraction thereof. (Ord. 4407, 1986; Ord. 4330, 1985; Ord. 4269, 1984; Ord. 3951, 1978; Ord. 3418 §1, 1970; Ord. 3410 §1, 1970; Ord. 2930 §21, 1963.)

5.04.400 Tax - Gross Receipts - Manufacturing, Wholesaling and Processing.

Every person carrying on the business consisting of manufacturing, packing, processing or selling at wholesale any goods, wares and merchandise or commodities at a fixed place of business within the City shall pay an annual tax based upon annual gross receipts at the following rates:

Annual Gross Receipts In Thousands	Annual Fee
$ 0 - 50	$ 25
50 - 60	27
60 - 70	29
70 - 80	32
80 - 90	35
90 - 100	38
100 - 125	45
125 - 150	55
150 - 175	64

Annual Gross Receipts In Thousands	Annual Fee
$ 175 - 200	$ 72
200 - 250	85
250 - 300	101
300 - 350	117
350 - 400	133
400 - 450	145
450 - 500	160
500 - 600	175
600 - 700	195
700 - 800	216
800 - 900	224
900 - 1000	240

The annual fee on annual gross receipts in excess of one million dollars ($1,000,000.00) shall be as follows:

$240.00 plus $20.00 per $100,000.00 gross receipts or fraction thereof up to $3,000,000.00 plus $15.00 per $100,000.00 gross receipts or fraction thereof between $3,000,000.00 and $6,000,000.00 gross receipts or fraction thereof, plus $10.00 per $100,000.00 gross receipts or fraction thereof in excess of $6,000,000.00 gross receipts or fraction thereof. (Ord. 3951, 1978; Ord. 3418 §2, 1970; Ord. 3410 §2, 1970; Ord. 2930 §22, 1963.)

5.04.410 Tax - Contractors.

Every person carrying on the business of house moving, grading, paving, wrecking, sewer, pipeline, trenching, excavating, general or building contractor shall pay an annual tax of one hundred dollars ($100.00).

Every person carrying on the business of electrical, plumbing, painting, specialty or any other contractor not specifically mentioned in the preceding paragraph of this section, shall pay an annual tax of eighty dollars ($80.00). (Ord. 2930 §23, 1963.)

5.04.415 Posting of Names and Business Tax Numbers - Contractors.

Every person carrying on a business generally or specifically mentioned in §5.04.410, shall post in a conspicuous, easily visible location on any site where he is carrying on said business, his name and business tax number and the names and business tax numbers of any and all subcontractors who perform any of the work at said site. (Ord. 3605, 1973.)

5.04.420 Tax - Businesses and Professions Enumerated.

Every person conducting or carrying on any business, profession or occupation herein enumerated, shall pay an annual tax based upon each professional member and the average number of employees computed as follows:

(1) The first person practicing his profession, or semi-profession, one hundred dollars ($100.00) per year.

(2) For each additional professional or semi-professional, other than as a salaried employee, one hundred dollars ($100.00) per year.

(3) For each additional professional or semi-professional, as a salaried employee, forty dollars ($40.00) per year.

(4) For each employee in addition to the above, twenty dollars ($20.00) per year.

Abstract and title
Accountant
Advertising agent
Appraiser
Architect
Artist
Assayer
Attorney at law
Auditor
Bacteriologist
Blueprinter
Book agent
Broker or commission agent other than real estate brokers and agents
Certified public accountant
Chemist
Chiropodist
Chiropractor
Civil, electrical, mining, chemical, structural, consulting or hydraulic engineer
Climatologist
Collection agency
Computer programmer
Corporate headquarters
Credit reporting bureau
Dentist
Designer, illustrator or decorator
Detective agency and/or private patrol
Draftsman
Drugless practitioner

Electrologist
Engineer
Engraver
Entomologist
Feed, grain and fruit broker
Geologist
Illustrator or show card writer
Insurance or claims adjuster
Interpreter
Landscape gardener or architect
Lapidary
Masseuse
Mercantile agency
Meteorologist
Mortician
Naturopath
Nurse
Oculist
Optician
Optometrist
Osteopath
Physician
Physiotherapist
Piano tuner
Property management
Public stenographer
Research labs (no gross receipts)
Roentgenologist
Sign painter
Surgeon
Surveyor
Systems analyst
Taxidermist
Termite inspector
Veterinarian

And every person conducting or carrying on the business of treating, curing, administering to or giving treatments to the sick, wounded or infirm for the purpose of bringing about their recovery, by any method or pursuant to any belief, doctrine or system other than those herein specifically named and charging a fee or compensation therefor.

And any other profession or semi-profession not otherwise classified in this chapter. For purposes of determining whether a position is professional or semi-professional, the Tax and Permit Inspector shall use and be guided by the then current edition of the Dictionary of Occupational Titles issued by the U.S. Department of Labor, Employment and Training Administration. A copy of said dictionary is on file with the Tax and Permit Inspector and the Office of Citizen Services. (Ord. 4269, 1984; Ord. 3951, 1978; Ord. 3861, 1976; Ord. 3522, 1972; Ord. 2930, 1963.)

5.04.425 Residential Rentals.

A. Every person carrying on the business of operating an apartment house, a court, a permanent recreational vehicle or mobilehome park (as defined in Title 28 of this Code), duplexes, or single-family dwellings, which business controls a total of three (3) or more rental units, shall pay an annual fee based upon the total gross receipts as follows:

Annual Tax - $15.00 minimum plus $1.00 per $1,000 gross receipts or fraction thereof over $10,000.

B. For purposes of this section, rental unit shall mean a housing accommodation which is offered for rent, lease or charge and shall include, but not be limited to, the following or like situations: an apartment, court, duplex, mobilehome park space or permanent recreational vehicle space. (Ord. 4269, 1984; Ord. 3951, 1978.)

5.04.426 Commercial Rentals.

Every person carrying on the business of renting, leasing or subletting one (1) or more commercial rentals shall pay an annual fee based upon the total gross receipts as follows:

Annual Tax - $15.00 minimum plus $1.00 per $1,000 gross receipts or fraction thereof over $10,000. (Ord. 3951, 1978.)

5.04.430 Tax - Real Estate Brokers and Agents.

(1) Every person conducting or carrying on business as a real estate broker and who is licensed as such by the State of California and having a business office in the City shall pay an annual tax of one hundred dollars ($100.00).

(2) Every person conducting or carrying on business as a real estate salesperson or agent and having a business office in the City shall pay an annual tax of forty dollars ($40.00).

(3) Every person conducting or carrying on business as a real estate broker and having a business office in the City shall pay a tax of twenty dollars ($20.00) for each employee in such business other than those employed as, and licensed by the State as, real estate salesmen or agents. (Ord. 3951, 1978; Ord. 3861, 1976; Ord. 3402, 1970; Ord. 2930, 1963.)

5.04.435 Tax - Real Estate Brokers, Salespersons and Agents Not- Having a Business Office in the City.

Each person conducting or carrying on business as an agent, salesperson or real estate broker who is licensed as such by the State of California and who does not have a business office within the City shall pay an annual tax at the rate of $10.00 per real estate transaction affecting property within the City during the year up to a maximum of $40.00 per salesperson or agent and $100.00 per broker. (Ord. 3951, 1978.)

5.04.440 Tax - Real Estate Developer.

Every person carrying on the business of real estate developer shall pay an annual tax measured by the established and indicated building values on building permits issued by the City, if any, according to the following schedule:

Building Permit Value - Yearly Total	Annual Tax
$0 (no permits issued) to $250,000.00	$ 100.00
$250,000.00 up to $500,000.00	150.00
$500,000.00 and above	200.00

A person carrying on the business of real estate developer as defined in Section 5.04.010 shall be deemed to be carrying on such business in the City if:

(1) Offices are maintained in the City for the regular and substantially continuous conduct of the affairs of the business; or

(2) Building permits are issued by the City to someone acting for such person for the construction of a building or buildings in the regular course of the business.

The following activities of a person whose business is classified and taxed under this section shall be deemed to be incidents and parts of such business, and shall not be separately classified and taxed, so long as and to the extent that such activities are confined exclusively to the real property, as improved, acquired in the course of such business:

(1) Property management;
(2) Contractor;
(3) Engineering;
(4) Architectural engineering;
(5) Real estate agency or brokerage; and
(6) Financing (not including purchase financing for sales from developer to buyer).

Notwithstanding any other provision of this section, the classification and taxing as real estate developer of any person shall not preclude additional classification and taxing under other sections of this chapter where:

(1) Improved real property is acquired and held for the production of rental income for a period of time longer than one (1) year; or

(2) Real property is acquired and improved and, measuring from the date of approval upon final inspection by the Building Division, such improved real property is held for the production of rental income for a period of time longer than one (1) year.

If fifty percent (50%) or more of the ownership interest of a business otherwise subject to classification and taxing under this section is owned by a person classified and taxed under this section, then such business shall not be separately taxed but shall be included as a part of the business of the person classified and taxed under this section. (Ord. 2975 §1, 1964; Ord. 2930 §25.1, 1963.)

5.04.450 Tax - Wholesale and Retail Delivery by Vehicle - No Fixed Place of Business.

Every person not having a fixed place of business within the City who delivers within the City goods, wares or merchandise of any kind by vehicle, or who provides any service by the use of vehicles in the City, shall pay an annual tax of thirty dollars ($30.00) per vehicle for each vehicle used within the City, or a tax based upon the annual gross receipts of the business derived from all business done and deliveries made within the City, computed according to the following table, whichever is greater.

Annual Gross Receipts in Thousands	Annual Tax: Retail Business (M.C. §5.04.390)	Annual Tax: Manufacturing, Wholesaling and Processing Business (M.C. §5.04.400)
$ 25 - 30	$ 35	
30 - 35	37	
35 - 40	39	
40 - 45	41	
45 - 50	43	
50 - 60	45	
60 - 70	49	(minimum)
70 - 80	53	$ 32
80 - 90	58	35
90 - 100	64	38
100 - 125	75	45

Annual Gross Receipts in Thousands	Retail Business (M.C. §5.04.390)	Annual Tax Manufacturing, Wholesaling and Processing Business (M.C. §5.04.400)
$ 125 - 150	$ 91	$ 55
150 - 175	106	64
175 - 200	120	72
200 - 250	142	85
250 - 300	168	101
300 - 350	195	117
350 - 400	221	133
400 - 450	242	145
450 - 500	266	160
500 - 600	292	175
600 - 700	325	195
700 - 800	360	216
800 - 900	374	224
900 - 1000	400	240

Retail Business Annual Gross Receipts in Thousands	Annual Tax
Annual gross receipts in excess of one million dollars ($1,000,000.00).	$400.00 + $20.00 per $100,000.00 gross receipts up to $3,000,000.00 + $15.00 per $100,000.00 gross receipts between $3,000,000.00 and $6,000,000.00 gross receipts, + $10.00 per $100,000.00 gross receipts in excess of $6,000,000.00 gross receipts.
Manufacturing, wholesaling and processing business annual gross receipts in excess of one million dollars ($1,000,000.00).	$240.00 + $20.00 per $100,000.00 gross receipts up to $3,000,000.00 + $15.00 per $100,000.00 gross receipts between $3,000,000.00 and $6,000,000.00 gross receipts, + $10.00 per $100,000.00 gross receipts in excess of $6,000,000.00 gross receipts.

The provisions of this section shall become effective on the first day of July, 1971. (Ord. 3470 §1, 1971; Ord. 3426 §1, 1970; Ord. 2930 §26, 1963.)

5.04.460 Tax - Flat Amount - Businesses Enumerated.

Every person carrying on the businesses herein enumerated shall pay an annual tax as follows:

Business	Annual Tax
Dancing	$128.00
Cafe entertainment	500.00
Fortune tellers	240.00
Golf courses	120.00
Golf courses, miniature	80.00
Golf driving ranges	80.00
Hospital	250.00
Pawnbroker	240.00
Telephone soliciting	200.00

(Ord. 4407, 1986; Ord. 3861, 1976; Ord. 3229, 1967; Ord. 2930, 1963.)

5.04.470 Tax - Billboard.

Every person engaged in the business of billboard advertising shall pay an annual tax of two hundred dollars ($200.00), or fifty cents ($0.50) per lineal foot of billboard located in the City, whichever is greater. (Ord. 3861, 1976; Ord. 2930, 1963.)

5.04.480 Tax - Trucking - Hauling.

(a) Every person carrying on the business of operating any truck, tractor or other vehicle for the transportation of property for hire or compensation, and who in the course of that business uses the public streets and highways of this City for the purpose of such business, shall pay an annual tax measured as follows:

(1) For any vehicle having not more than two (2) axles, according to the following schedule:

Unladen Weight	Annual Tax Per Vehicle
Less than ten thousand pounds (10,000 lbs.)	Sixteen cents ($0.16) for each day or fraction thereof such vehicle is used as specified in Subsection (a).
Ten thousand pounds (10,000 lbs.) or over	Twenty cents ($0.20) for each day or fraction thereof such vehicle is used as specified in Subsection (a).

(2) For any vehicle having three (3) or more axles or for any trailer, semi-trailer, pole or pipe dolly, or other dolly according to the following schedule:

Unladen Weight	Annual Tax Per Vehicle
Less than ten thousand pounds (10,000 lbs.)	Twenty cents ($0.20) for each day or fraction thereof such vehicle is used as specified in Subsection (a).
Ten thousand pounds (10,000 lbs.) or over	Twenty-four cents ($0.24) for each day or fraction thereof such vehicle is used as specified in Subsection (a).

(3) The minimum annual tax payable under this section shall be twenty dollars ($20.00).

(b) In determining the weights and types of equipment upon which the tax under this section is required to be measured, the weight prescribed by the Motor Vehicle Code of the State of California shall apply and the applicant for such tax shall present the certificate of registration from that Department for reference.

(c) Every vehicle upon which the tax under this section is required to be measured shall have conspicuously displayed thereon the tax sticker furnished by the Tax and Permit Inspector.

(d) Any person required to pay the annual tax imposed by this section, when making any statement, other than a corrected statement, set out in Sections 5.04.210 - 5.04.240, may estimate the number of and the unladen weights of any vehicles to be used as specified in Subsection (a) of this section. Such estimate may be based upon any reasonable method of calculation and any finally determined overpayments or underpayments shall be paid in, credited, or returned, in the manner provided in Sections 5.04.230 -- 5.04.240.

(e) No tax hereunder shall be required for the operation of any vehicle for any day or fraction thereof when such vehicle is operated exclusively between points within this City and points without this State.

(f) No tax hereunder shall be required for the operation of any motor vehicle or equipment along the streets of this City if such operation is merely occasional and incidental to a business conducted elsewhere; provided, however, that no operation shall be deemed merely occasional if trips or hauls are made, beginning or ending at points within this City upon an average of more than once a week in any quarter, and a business shall be deemed to be conducted within this City if an office or agency is maintained here or if transportation business is solicited here.

(g) The provisions of this section are not to be construed as imposing a tax upon vehicles, but as a method of classification of business. (Ord. 3861, 1976; Ord. 2930, 1963.)

5.04.490 Tax - Transporting Persons for Hire.

(a) Every person carrying on the business of operating any vehicle for the transportation of persons for hire, and who in the course of that business uses the public streets and highways of this City for the purpose of such business, shall pay an annual tax to be measured as hereinafter provided.

(b) The business taxed under the provisions of this section shall be the transportation of persons:

(1) Wholly within the City;

(2) From a place or places outside the City to a place or places within the City;

(3) From a place or places within the City to a place or places outside of the City;

(4) From a place or places within the City to a place or places within the City even though such transportation involves going outside the City in the course thereof.

(c) This section shall not apply to the business of operating motor coaches or other motor vehicles under the provisions of a franchise granted by, and which requires a franchise fee or charge based upon, such operations to be paid to the City, when such fee or charge has been paid.

(d) The tax required to be paid under this section shall be measured as follows:

(1) For each ambulance, the tax shall be ten cents ($0.10) for each day or fraction thereof of its operations as specified in Subsection (b);

(2) For each vehicle having a seating capacity of ten (10) or less persons, the tax shall be twenty-two cents ($0.22) for each day or fraction thereof of its operation as specified in Subsection (b);

(3) For each vehicle having a seating capacity of eleven (11) to thirty (30) persons, inclusive, the tax shall be twenty-six cents ($0.26) for each day or fraction thereof of its operation as specified in Subsection (b);

(4) For each vehicle having a seating capacity of more than thirty (30) persons, the tax shall be thirty cents ($0.30) for each day or fraction thereof of its operation as specified in Subsection (b);

(5) The minimum annual tax payable under this section shall be twenty dollars ($20.00).

(e) Notwithstanding the provisions of Subsection (d), where any vehicle is operated exclusively on any day to transport students or members of bona fide youth organizations and their supervising adults to and from public or private schools, school events, or other youth activities, without regard to the manner or source of compensation to the operator, the tax shall be ten cents ($0.10) for each day or fraction thereof of its operation as specified in Subsection (b).

(f) Every vehicle upon which the tax under this section is required to be measured shall have conspicuously displayed thereon the tax sticker furnished by the Tax and Permit Inspector.

(g) Any person required to pay the annual tax imposed by this section, when making any statement, other than a corrected statement, set out in Sections 5.04.200 - 5.04.230, may estimate the number of and the seating capacities of any vehicles to be used as specified in Subsection (b) of this section. Such estimate may be based upon any reasonable method of calculation and any finally determined overpayments or underpayments shall be paid in, credited, or returned in the manner provided in Section 5.04.220 - 5.04.230.

(h) No tax hereunder shall be required for the operation of any vehicle for any day or fraction thereof when such vehicle is operated exclusively between points within this City and points without this State.

(i) No tax hereunder shall be required for the operation of any vehicle along the streets of this City if such operation is merely occasional and incidental to a business conducted elsewhere; provided, however, that no operation shall be deemed merely occasional if trips are made beginning or ending at points within this City upon an average of more than once a week in any quarter, and a business shall be deemed to be conducted with this City if an office or agency is maintained here or if transportation business is solicited here.

(j) No tax hereunder shall be required for the operation of any motor vehicle for any day or fraction thereof when such vehicle is operated exclusively between fixed termini or over regular routes in passenger stage operations under certificate issued by the Public Utilities Commission pursuant to Division 1, Part 1, Chapter 5, Article 2 of the Public Utilities Code of the State of California and for which operation a certificate of public convenience and necessity has been issued by the Interstate Commerce Commission.

(k) The provisions of this section are not to be construed as imposing a tax upon vehicles, but as a method of classification of business. (Ord. 3861, 1976; Ord. 2930, 1963.)

5.04.500 Tax - Bowling Alleys and Poolrooms.

Every person carrying on the business of a public bowling alley, pool or billiard room, shall pay an annual tax per table or alley of ten dollars ($10.00). (Ord. 3861, 1976; Ord. 2930, 1963.)

5.04.520 Tax - Peddlers of Personal Property.

Every person carrying on the business of a peddler of cement, auto polish, flags, banners, balloons, canes, horns, trumpets, musical or noise making instruments of any kind, toys, badges, buttons, shoe strings, hair pins, lead pencils, combs, souvenirs, or other items of personal property, shall pay a tax of ten dollars ($10.00) per day with a maximum of fifty dollars ($50.00) per month. (Ord. 2930 §33(a), 1963.)

5.04.530 Tax - Peddlers of Nursery Products, Food, Meat and Produce.

Every person engaged in the business of a peddler of flowers, plants, ferns, nursery stock, or meat, game eggs, ice cream, candy, peanuts, popcorn, chewing gum, non-alcoholic drinks, tamales, beans, sandwiches, nuts, or poultry, fish, fruit, vegetables, bread, crackers, cake, pies, or other foodstuffs intended for human consumption, or magazines, newspapers or periodicals, by means of any wagon or other vehicle, shall pay a tax of sixty dollars ($60.00) per year for each vehicle; by means of any basket, tray or other container carried by hand, ten dollars ($10.00) per year. (Ord. 2930 §33(b), 1963.)

5.04.540 Tax - Miscellaneous Peddlers.

Every person carrying on the business of a peddler other than specifically mentioned in Sections 5.04.520 and 5.04.530 shall pay a tax of ten dollars ($10.00) per day. (Ord. 2930 §33(c), 1963.)

5.04.550 Tax - Peddlers Advertising.

Every person carrying on the business of a peddler of medicine, who calls attention to his wares or advertises the same by the use of music, entertainment, speech, fancy or grotesque dress, or other device, shall pay a tax of one hundred dollars ($100.00) per day. (Ord. 2930 §33(d), 1963.)

5.04.560 Tax - Menagerie, Dog or Pony Show.

Every person carrying on the business of conducting a menagerie, or dog or pony show, shall pay a tax of fifty dollars ($50.00) per day; a circus shall pay a tax of three hundred dollars ($300.00) per day for one (1) ring, three hundred twenty-five dollars ($325.00) per day for two (2) rings, and three hundred fifty dollars ($350.00) per day for three (3) rings or more, and for each and every sideshow or aftershow in connection therewith, the tax shall be twenty-five dollars ($25.00) per day, and for each concession in connection therewith, the tax shall be fifteen dollars ($15.00) per day. (Ord. 2930 §34(a), 1963.)

5.04.570 Tax - Acrobatic or Theatrical Exhibitions.

Every person carrying on the business of conducting acrobatic or theatrical exhibitions under canvas shall pay a tax of seventy-five dollars ($75.00) per day. (Ord. 2930 §34(b), 1963.)

5.04.580 Tax - Circus.

Every person conducting or managing a circus procession or parade and not having paid a tax for con-ducting, managing or carrying on a circus within the City limits, shall pay a tax of one hundred dollars ($100.00) for each such procession or parade. (Ord. 2930 §34(c), 1963.)

5.04.590 Tax - Fair or Carnival.

Every person engaged in the business of conducting a fair, carnival or exhibition in the City shall pay a tax of three hundred dollars ($300.00) for each day or portion thereof during which the fair, carnival or exhibition is conducted, plus fifteen dollars ($15.00) per day for each concession over ten (10). (Ord. 2930 §34(d), 1963.)

5.04.600 Tax - Junk Collector.

Every person carrying on the business of a junk collector without a fixed place of business within the City shall pay a tax of five dollars ($5.00) per day or fifty dollars ($50.00) per year. (Ord. 2930 §35, 1963.)

5.04.610 Tax - Handbills.

(a) Temporary handbill distributor.

Every person carrying on the business of handbill distribution pursuant to a temporary handbill permit issued pursuant to §5.24.050(1) shall pay a minimum tax fee of five dollars ($5.00) to distribute not more than four thousand (4,000) handbills within ten (10) days, and for each one thousand (1,000) in excess thereof, an additional fee of one dollar ($1.00).

(b) Private handbill distribution system.

Every person carrying on the business of handbill distribution pursuant to a private handbill distribution system permit issued pursuant to §5.24.050(2) shall pay the tax required by §5.04.420. (Ord. 3619, 1974; Ord. 2930, 1963.)

5.04.620 Tax - Photographers - Transient.

Every person carrying on the business of a photographer, who has no fixed place of business within the City, shall pay an annual tax of sixty dollars ($60.00).

Every person engaged in the business of soliciting or canvassing or taking orders, for the taking or making of photographs or views, who does not have a fixed place of business within the City, shall pay a tax of five dollars ($5.00) per day for each such canvasser, solicitor or photographer. (Ord. 2930 §37, 1963.)

5.04.630 Tax - Solicitors, Canvassers.

Every person carrying on the business of soliciting or canvassing or taking orders for any goods, wares or merchandise, or any other thing at retail, and not having a fixed place of business in the City, or is not an agent of a principal having a fixed place of business in the City, shall pay a tax of five dollars ($5.00) per day for each such canvasser or solicitor. (Ord. 2930 §38, 1963.)

5.04.640 Tax - Wrestling or Boxing.

Every person carrying on the business of conducting wrestling or boxing exhibitions shall pay a permit fee as provided in Section 5.48.040. (Ord. 3140 §2, 1966; Ord. 2930 §39, 1963.)

5.04.650 Tax - Museums.

Every person carrying on the business of conducting a museum which charges a fixed admission fee, shall pay an annual tax as prescribed by Section 5.04.390; museums without a fixed admission fee shall pay an annual tax of twenty-five dollars ($25.00) per year, except that no tax shall be required for any museum operated by a governmental entity or by any school or church. (Ord. 4330, 1985; Ord. 2930 §40, 1963.)

5.04.660 Tax - Sellers of Home-grown Products.

Every farmer, poultry man or horticulturist, carrying on the business of selling at wholesale or retail produce grown or raised wholly by himself or his immediate family in Santa Barbara County, shall pay an annual tax of five dollars ($5.00). This provision shall not apply to nurseries or other commercial establishments which buy produce for resale as well as selling their own products. (Ord. 2930 §41, 1963.)

5.04.670 Exemptions - Constitution or Statutes of the United States or of the State of California.

Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment to municipal corporations of such taxes herein prescribed. (Ord. 2930 §42(a)(part), 1963.)

5.04.680 Exemptions - Franchised Public Utility.

Any public utility operating under a franchise from this City and paying a franchise tax is subject to the provisions of this chapter to the extent of any retail sales of merchandise in which such utility may engage in this city. (Ord. 2930 §42(a)(part), 1963.)

5.04.690 Exemptions - Charitable, Educational or Religious Organization.

(a) The provisions of this chapter shall not be deemed or construed to require the payment of a tax to conduct, manage or carry on any business, occupation or activity, from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes or from which profit is not derived, either directly or indirectly, by any individual, firm or corporation; nor shall any tax be required for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects within the City whenever the receipts of any such entertainment, concert, exhibition or lecture are to be appropriated to any church or school, or to any religious or benevolent purpose; nor shall any tax be required for the conducting of any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, State, County or municipal organization or association, whenever the receipts of any such entertainment, dance, concert, exhibition or lecture are to be appropriated for the purpose and objects for which such association or organization was formed, and from which profit is not derived, either directly or indirectly, by an individual, firm or corporation; provided, however, that nothing in this section contained shall be deemed to exempt any such institution or organization from complying with the provisions of this chapter, or other ordinances of this City requiring a permit from the City Council or any commission or officer to conduct, manage or carry on any profession, trade, calling or occupation.

(b) The payment of necessary expenses incurred for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects shall not be deemed to be profit derived by any individual, firm or corporation for the purposes of this section. (Ord. 2930 §42(b), 1963.)

5.04.700 Claim for Exemption.

Any person claiming an exemption pursuant to this chapter, shall file a verified statement with the Tax and Permit Inspector, stating the facts upon which exemption is claimed. (Ord. 2930 §42(c), 1963.)

5.04.710 Exemption - Issuance of Receipt.

The Tax and Permit Inspector shall, upon a proper showing contained in the verified statement, issue a receipt to such person claiming exemption under Section 5.04.690 without payment to the City of the tax required by this chapter. (Ord. 2930 §42(d), 1963.)

5.04.720 Exemption - Revocation.

The Tax and Permit Inspector may revoke any receipt granted pursuant to the provisions of Sections 5.04.680 - 5.04.710 upon information that the individual or entity is not entitled to the exemption as provided herein. (Ord. 2930 §42(e), 1963.)

5.04.730 Certain Businesses with Annual Gross Receipts of One Thousand Two Hundred Dollars ($1,200.00) or Less.

Notwithstanding any other provision of this chapter, where any person is required to pay a business tax under this chapter measured by the annual gross receipts of such person's business, then, where such gross receipts are one thousand two hundred dollars ($1,200.00) or less, the amount of the tax to be paid shall be five dollars ($5.00). (Ord. 2937 §4, 1963; Ord. 2930 §43, 1963.)

5.04.735 Artists Tax Exemption.

Notwithstanding any other provision of this chapter, Artists, as the term is used in section 5.04.420, shall not be taxed if their annual gross receipts are less than five thousand dollars ($5,000.00). Artists with gross annual receipts of five thousand dollars ($5,000.00) or more shall be taxed in accordance with section 5.04.390 or 5.04.420, as applicable. (Ord. 5677, 2014.)

5.04.740 Minors - Sixteen (16) Years and Under - Exemption.

Every natural person of the age of sixteen (16) years or under, whose annual gross receipts from any and all businesses are five hundred dollars ($500.00) or less, shall not be required to pay a business tax under the provisions of this chapter. (Ord. 2930 §44, 1963.)

5.04.750 Disabled Veterans - Exemption.

Any veteran, who is unable to obtain a livelihood by manual labor due to physical disability, may, at the discretion of the Tax and Permit Inspector, pay a tax to hawk or peddle any goods, wares or merchandise without payment of any tax, by applying to the Tax and Permit Inspector and producing a certificate from a local physician showing the applicant to be physically disabled, evidence of being a legal voter of the State of California, and a copy of an honorable discharge. (Ord. 2930 §45, 1963.)

5.04.760 Disabled Persons - Exemption.

Any person who is unable to obtain a livelihood by manual labor due to a physical disability, may, at the discretion of the Tax and Permit Inspector, obtain a receipt under the provisions of this chapter, without payment of any tax, by applying to the Tax and Permit Inspector and producing a certificate from a local physician showing the applicant to be physically disabled. (Ord. 2930 §46, 1963.)

5.04.770 Both Criminal and Civil Action Authorized for Failure to Pay.

The conviction and imprisonment of any person for engaging in any business without first complying with the provisions of this chapter shall not relieve such person from paying the tax imposed by this chapter. All remedies prescribed hereunder shall be cumulative and the use of one (1) or more remedies by the City shall not bar the use of other remedies for the purpose of enforcing the provisions of this chapter. (Ord. 2930 §47, 1963.)

5.04.780 Rules and Regulations.

The City Council hereby reserves the right to adopt by resolution any rules and regulations providing for the administration of this chapter. (Ord. 2930 §48, 1963.)

5.04.790 Posting and Keeping Receipt.

All receipts issued under the provisions of this chapter must be kept and posted in the following manner:

(1) Any payee transacting and carrying on business at a fixed place of business within the City shall keep the receipt posted in a conspicuous place upon the premises where such business is carried on.

(2) Any payee transacting and carrying on business but not operating at a fixed place of business in this City, shall keep the receipt upon his person at all times while transacting and carrying on such business. (Ord. 2930 §49, 1963.)

5.04.795 Records - Inspection.

It shall be the duty of every person liable for the payment to the City of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for, which records Tax and Permit Inspector shall have the right to inspect at all reasonable times. (Ord. 3951, 1978.)

5.04.800 Penalty for Violation.

Any person violating any of the provisions of this chapter, or knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring the receipt for payment of tax or permit herein provided for, shall be deemed guilty of a misdemeanor. (Ord. 2930 §50, 1963.)

5.04.830 Tax Rate Reduction - Previously Paid Taxes.

If any person has already paid the annual taxes required to be paid for the privilege of doing business on and after July 1, 1964, the Tax and Permit Inspector shall allow and give to such person a credit against the taxes next required to be paid for a renewal receipt in an amount equal to five percent (5%) of that portion of the taxes paid which was for the privilege of doing business on and after July 1, 1964; or, if no renewal receipt is to be issued, then such person shall be entitled to a refund of an amount equal to five percent (5%) of that portion of the taxes paid which was for the privilege of doing business on and after July 1, 1964, upon his filing a claim for such refund in the Finance Office not later than one (1) year from the expiration of the period for which the taxes were paid. (Ord. 2992 §2(part), 1964; Ord. 2930 §51(c), 1963.)

Chapter 5.06

BUSINESS TAX INCENTIVE, ETC.

Sections:

5.06.010	**Purpose.**	**5.06.060**	**Preemption of Ordinance.**
5.06.020	**Definitions.**	**5.06.070**	**Criteria of Conversion.**
5.06.030	**Reduction of Business Tax - When.**	**5.06.080**	**Automatic Repeal of Chapter.**
5.06.040	**Computation of Tax Reduction.**	**5.06.090**	**Effect of Transfer of Motor Vehicle.**
5.06.050	**Form of Application.**		

5.06.010 Purpose.

The City Council of the City of Santa Barbara finds that air quality in the City and surrounding area now violates Federal Air Quality Standards on a significant number of days each year, that motor vehicle emissions contribute a greater quantity of pollutants than any other source, that commercial and fleet vehicles registered in the City contribute a significant part of the pollutants from all motor vehicles and that the health, safety and welfare of the residents of the City are seriously affected by deterioration in air quality. It is the purpose of this chapter to reduce the quantity of emissions from commercial and fleet vehicles by providing a reduction in business tax to owners of such vehicles to encourage conversion to a gaseous fuel system emitting low levels of pollutant. (Ord. 3588, 1973.)

5.06.020 Definitions.

As used is this chapter, the words and terms defined in this section shall have the following meanings:

(1) "Gaseous fuel system" means a fuel system which permits a motor vehicle equipped with such system to be operated on compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

(2) "Motor vehicle" means any vehicle which legally operates upon the streets and highways and is powered by an internal combustion engine fueled by gasoline before conversion.

(3) "Conversion" means installation in a motor vehicle of a kit or device resulting in the substitution of a gaseous fuel for gasoline.

(4) "State of California Conversion Certificate" means a currently valid certificate of compliance issued pursuant to California Vehicle Code Section 4000.1 and which indicates conversion. (Ord. 3588, 1973.)

5.06.030 Reduction of Business Tax - When.

Any person or entity owning and operating one (1) or more motor vehicles for the purposes of a business taxed under Chapter 5.04 of this Code shall, upon application as hereinafter in this chapter provided, be allowed a reduction in business tax provided that such motor vehicle or vehicles is or are converted to a gaseous fuel system. Such reduction in tax shall commence with the original payment or repayment of a business tax following the effective date of this ordinance and upon such application being made. (Ord. 3588, 1973.)

5.06.040 Computation of Tax Reduction.

Business tax reduction pursuant to this chapter shall be computed at fifty percent (50%) of the vehicle day schedules set forth in Sections 5.04.480 and 5.04.490 of this Code. Such reduction, however, shall not be limited to individuals operating businesses of trucking, hauling or transporting persons for hire, but shall for the purpose of this chapter apply to all those who have paid business taxes. Notwithstanding the above, it is hereby provided:

(a) That no reduction pursuant to this chapter shall exceed an amount equal to fifty percent (50%) of the total business tax due before reduction, and

(b) That no reduction shall exceed the sum of fifty dollars ($50.00) on account of any one (1) motor vehicle during the total period of years during which said motor vehicle is operated. (Ord. 3588, 1973.)

5.06.050 Form of Application.

A business tax payee applying for reduction of business tax pursuant to this chapter shall do so on a form to be provided by the City Treasurer, which form shall include a certification by the applicant under penalty of perjury that the information provided is true and complete. The said applicant shall also present a State of California conversion certificate, pertaining to the motor vehicle or vehicles on account of which application is made. (Ord. 3588, 1973.)

5.06.060 Preemption of Ordinance.

This chapter shall not apply as to any motor vehicle the conversion of which shall be required by any Federal or State legislation or regulation. (Ord. 3588, 1973.)

5.06.070 Criteria of Conversion.

For the purposes of this chapter, a conversion must at least meet the standards set forth in California State Revenue & Taxation Code Section 8657. (Ord. 3588, 1973.)

5.06.080 Automatic Repeal of Chapter.

This chapter shall terminate, and shall have no further force or effect five (5) years from the date of its adoption unless extended prior to the expiration of said period; provided that, reduction in business tax first allowed prior to the expiration of said period shall continue beyond said period until the maximum reduction of fifty dollars ($50.00) is obtained for any one (1) motor vehicle. (Ord. 3588, 1973.)

5.06.090 Effect of Transfer of Motor Vehicle.

If a converted motor vehicle is transferred from one (1) business tax payee to another, the transferee shall receive, in the manner prescribed above, the balance, if any, of the reduction of business tax up to the maximum of fifty dollars ($50.00) allowed for one (1) motor vehicle. (Ord. 3588, 1973.)

Chapter 5.07

PRIVATE PATROL OPERATORS

Sections:

5.07.010	**Definitions.**	**5.07.070**	**Duration of Registration and Renewal.**
5.07.020	**Legislative Intent.**	**5.07.080**	**Business Tax Applies.**
5.07.030	**Registration Required.**	**5.07.090**	**Modification of Approved Uniforms and Vehicles.**
5.07.040	**Registration Procedure.**	**5.07.100**	**Revocation of Registration.**
5.07.050	**Commission Agenda.**		
5.07.060	**Commission Action.**		

5.07.010 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning.

A. PRIVATE PATROL OPERATOR. Any person, partnership, corporation, firm, agency or other organization which provides security or investigative services within the City of Santa Barbara wholly or partially through the use of personnel attired in distinctive uniforms and/or vehicles with distinctive markings.

B. COMMISSION. The Fire and Police Commission of the City of Santa Barbara. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.020 Legislative Intent.

This ordinance is adopted to ensure that the uniforms and vehicles used by employees of private patrol operators are clearly distinguishable from those used by the Santa Barbara Police Department and other law enforcement agencies in the South Coast area of Santa Barbara County. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.030 Registration Required.

No private patrol operator shall provide services within the City of Santa Barbara without first having registered with the Commission in the manner provided in this Chapter. (Ord. 4499, 1988; Ord. 3748,1975.)

5.07.040 Registration Procedure.

Any person, partnership, corporation, firm, agency or other organization desiring to be a private patrol operator in the City of Santa Barbara shall register with the secretary of the Commission. The registration submittal shall contain at least the following information:

A. Name of registrant.
B. Business address of registrant.
C. Description of the type of private patrol operation which registrant plans to conduct.
D. Number of uniformed employees registrant plans to perform services in the City of Santa Barbara.
E. Description of employees' uniform including, but not limited to the following information:
   1. color of clothing;
   2. color and design of badge to be worn by employees;
   3. color, design and location on the uniform of any distinctive patches.
F. Description of all distinctively marked vehicles to be used in the City of Santa Barbara, including, but not limited to the following:
   1. color;
   2. description and location on the vehicle of any distinctive insignia;
   3. description and location on the vehicle of any emergency lights.
G. Number of distinctively marked vehicles to be used by the applicant in the City of Santa Barbara.
H. A copy of the registrant's current state license. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.050 Commission Agenda.

A registration for a private patrol operator permit shall be placed on the next agenda of the Commission which has not been finalized at the time the registration is filed. (Ord. 4499. 1988; Ord. 3748, 1975.)

5.07.060 Commission Action.

The Commission shall review all registrations for private patrol permits to determine whether the uniforms and vehicles to be used by the registrant are clearly distinguishable from those used by the Santa Barbara Police Department and other law enforcement agencies in the South Coast area of Santa Barbara County. If the Commission determines that said uniforms and vehicles are not clearly distinguishable, it shall order the registrant to modify the uniforms and vehicles in a manner which the Commission determines will make them clearly distinguishable from those used by the Santa Barbara Police Department and other law enforcement agencies in the South Coast area of Santa Barbara County. No registrant may utilize a uniform or vehicle which has not been approved by the Commission pursuant to this section. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.070 Duration of Registration and Renewal.

A private patrol operator registration shall be valid for one (1) year and may be renewed annually by the Police Chief by the registrant filing a statement with the secretary of the Commission declaring under penalty of perjury that the uniforms and vehicles used by the registrant in the City of Santa Barbara are the same as those approved by the Commission. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.080 Business Tax Applies.

Nothing in this Chapter shall be construed to excuse the payment of the normal business tax required by Chapter 5.04 of this Code. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.090 Modification of Approved Uniforms and Vehicles.

No registrant shall modify, change, or alter the uniforms and vehicles approved by the Commission without first applying to the Commission and receiving its determination that its uniforms and vehicles as modified, changed or altered are clearly distinguishable from those used by the Police Department of the City of Santa Barbara and other law enforcement agencies in the South Coast area of Santa Barbara County. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.100 Revocation of Registration.

A private patrol operator registration may be revoked by the Commission if it determines that the uniforms and vehicles used by the permittee in the City of Santa Barbara are not the same as those approved by the Commission. Prior written notice of the date of Commission meeting at which the Commission will consider revoking the permittee's registration and an opportunity to be heard shall be provided to the registrant. (Ord. 4499, 1988; Ord. 3748, 1975.)

Chapter 5.09

USE OF TABLES ON PUBLIC SIDEWALKS FOR NON-COMMERCIAL PURPOSES

Sections:

5.09.010 Tables on Sidewalks - Permit Required.
5.09.020 Application - Conditions.
5.09.030 Permit - Duration - Renewal.
5.09.040 Application - Contents.
5.09.050 Application Fee.
5.09.060 Permit - Issuance.
5.09.070 Permit - Non-transferable.
5.09.080 Permit - No Authorization to Trespass.
5.09.090 Permit Suspension or Revocation - Notice and Hearing.
5.09.100 Application for Permit - Appeal on Denial or Revocation.

5.09.010 Tables on Sidewalks - Permit Required.

No person shall place on or upon any public sidewalk or walkway within the corporate limits of the City, on or upon any sidewalk or walkway within the City held open to the use of the general public, any table, desk, counter or similar device as an adjunct to any non-commercial activity of a charitable or political nature, as the same is defined in Sections 5.08.010(1) and 5.08.020 of Chapter 5.08 of this Code, without having first secured a permit therefor. (Ord. 3446 §1(part), 1970.)

5.09.020 Application - Conditions.

Any permit required by Section 5.09.010 issued by the Tax and Permit Inspector upon application therefor, shall be issued upon the following mandatory conditions:

(a) All permitted tables, desks, counters or similar devices shall be placed and located in such manner as not to obstruct the free movement of pedestrian traffic, and so as not to interfere with the entry-way or exit-way of any business establishment;

(b) No table, desk, counter or similar device shall be placed closer than one hundred feet (100') to one another on the same side of the street in any one (1) block, and there shall be no more than a total of three (3) tables, desks or similar devices on the same side of the street in any one (1) block;

(c) No permit shall be issued under this chapter for periods during which celebrations, parades or similar events are being held which customarily cause the congregation of crowds of spectators in the area in which the applicant wishes to place any table, desk or counter;

(d) No permit shall be issued under this chapter for the periods of the Santa Barbara Arts and Crafts Show established under Chapter 15.08 of the Municipal Code for the sidewalk adjacent to the Show. (Ord. 3776, 1975; Ord. 3446 §1(part), 1970.)

5.09.030 Permit - Duration - Renewal.

No permit issued pursuant to this chapter shall be valid for a period longer than thirty (30) days. Any permit which has expired may be renewed by the permittee if, during the prior permit period, the permittee has complied with all the provisions, conditions and regulations of this chapter. (Ord. 3446 §1(part), 1970.)

5.09.040 Application - Contents.

Any person desiring a permit as required under this chapter shall file a verified application therefor with the Tax and Permit Inspector containing the following information:

(a) The name, address and telephone number of the person applying for the permit;

(b) The name, address and telephone number of the organization, if any, for whose benefit the permit is being sought; together with the name, address and telephone number of the principal officer of the organization;

(c) The proposed locations of any and all tables, desks, counters or similar devices which the applicant seeks to maintain;

(d) The total period of time and the hours during each day during which the applicant intends to maintain the tables, desks or counters;

(e) The nature of the proposed activity which the applicant seeks to undertake. (Ord. 3446 §1(part), 1970.)

5.09.050 Application Fee.

The applicant shall, in addition to the application required by this chapter, submit an application fee of one dollar ($1.00) for each table which he proposes to maintain. (Ord. 3446 §1(part), 1970.)

5.09.060 Permit - Issuance.

The Tax and Permit Inspector shall issue the permit provided for in this chapter, unless it is found that one (1) or more of the statements in the application are untrue. (Ord. 3446 §1(part), 1970.)

5.09.070 Permit - Non-transferable.

No permit issued under this chapter shall be transferable. (Ord. 3446 §1(part), 1970.)

5.09.080 Permit - No Authorization to Trespass.

No permit issued under this chapter shall constitute a license or authorization by the City to enter into or to trespass upon any private premises or property without the consent of the owner thereof. (Ord. 3446 §1(part), 1970.)

5.09.090 Permit Suspension or Revocation - Notice and Hearing.

Whenever it shall be shown or whenever the Tax and Permit Inspector has knowledge that any person to whom a permit has been issued under this chapter has violated any of the provisions of this chapter or while maintaining any permitted table, desk or counter has violated any penal law, or that any permittee or any agent or representative of such permittee, has made any misrepresentation concerning activities for which any table, desk or counter is maintained, the Tax and Permit Inspector may immediately suspend the permit issued and give the permittee written notice, in person or by registered special delivery mail of a hearing before a hearing board composed of the Tax and Permit Inspector, the City Attorney or his authorized delegate and the City Administrator or his authorized delegate, to be held within five (5) days of such suspension to determine whether or not the permit should be revoked. This notice must contain a statement of the facts upon which the Tax and Permit Inspector has acted in suspending the permit. At the hearing the permittee, and any other interested person, shall have the right to present evidence as to the facts upon which the Tax and Permit Inspector based the suspension of the permit, and any other facts which may aid the hearing board in determining whether this chapter or other law has been violated or whether a misrepresentation has been made. If, after such hearing, the hearing board finds that this chapter or other law has been violated or that misrepresentation has occurred, the Tax and Permit Inspector shall within two (2) days after the hearing, file in his office for public inspection and serve personally or by mail upon the permittee and all interested persons participating in the hearing, a written statement of the facts upon which the hearing board based such finding and shall immediately revoke the permit. If, after such hearing, the hearing board finds that this chapter or other law has not been violated or that misrepresentation has occurred, the Tax and Permit Inspector shall within two (2) days after the hearing, mail or give to the permittee a written statement canceling the suspension of the permit and stating that no violation or misrepresentation was found to have been committed. (Ord. 3766, 1975; Ord. 3446 §1(part), 1970.)

5.09.100 Application for Permit - Appeal on Denial or Revocation.

If any person is aggrieved by any ruling on any application filed pursuant to the provisions of this chapter, or by any revocation, such aggrieved person may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3446 §1(part), 1970.)

Chapter 5.15

MOTION PICTURE AND TELEVISION PRODUCTION

Sections:

5.15.010 Definition and Exemption.
5.15.020 Permit for Business of Taking Motion Pictures.
5.15.030 Rules and Regulations.
5.15.040 Appeal Process.

5.15.010 Definition and Exemption.

For the purposes of this chapter, the activity "motion picture and television production" includes cine-matography, videotaping and other similar processes. Motion picture and television production of current news activities are exempt from the provisions of this chapter. (Ord. 4026, 1979.)

5.15.020 Permit for Business of Taking Motion Pictures.

a. Every person engaged in the business of motion picture or television production in the City of Santa Barbara shall have a valid permit for such activity. The permit fees and exemptions shall be established by resolution.

b. If the applicant would not be required to have a business license except for the activity relating to the business of motion picture or television production, the permit shall serve in place of said business license and the permittee shall not be required to have a separate business license. (Ord. 4026, 1979.)

5.15.030 Rules and Regulations.

The City Administrator is hereby authorized to establish conditions for the issuance of such permits and to adopt rules and regulations for activities conducted pursuant to such permits. Such rules and regulations shall be approved by resolution of the City Council, but the City Administrator is authorized to adopt temporary rules and regulations for a period not to exceed thirty (30) days. (Ord. 4026, 1979.)

5.15.040 Appeal Process.

Any person denied a permit under this chapter may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4026, 1979.)

Chapter 5.16

MOTION PICTURE OPERATORS

Sections:

5.16.010	**Permit - Required - Examination of Applicant.**	**5.16.040**	**Permit - Cancellation - Rights of Operator.**
5.16.020	**Permit - Appearance of Applicant Before Examining Board.**	**5.16.050**	**Permit - Issuance Restrictions.**
		5.16.060	**Examining Board - Meetings.**
5.16.030	**Permit - Duration - Nontransferable.**	**5.16.070**	**Examining Board - Composition.**
		5.16.080	**Examining Board - Compensation.**

5.16.010 Examination of Applicant.

It shall be unlawful for any person to take charge of the operation of any motion picture operating booth or operate any motion picture apparatus in a motion picture operating booth within the City, who shall not first have taken an examination and secured a permit provided. (Prior Code §30.1.)

5.16.020 Permit - Appearance of Applicant Before Examining Board.

Each applicant for a permit to operate any motion picture booth or apparatus as provided in Section 5.16.010 shall appear before an examining board, as provided in Section 5.16.060, and shall satisfy such board of his fitness to operate such apparatus. (Prior Code §30.2.)

5.16.030 Permit - Duration - Nontransferable.

The motion picture operator's permit required in Section 5.16.010, shall be for a period of one (1) year from the date thereof and shall be nontransferable. (Prior Code §30.3.)

5.16.040 Permit - Cancellation - Rights of Operator.

The examining board mentioned in this chapter shall have the authority to cancel the permit of any operator upon satisfactory proof of his unfitness, but not until due notice to the holder is given at least five (5) days prior to the date set for a hearing, and he shall have the right to be present with counsel and witnesses, and offer in his own behalf, such testimony as may be pertinent. (Prior Code §30.4.)

5.16.050 Permit - Issuance Restrictions.

The permit required by this chapter shall not be issued to any person who is under the age of seventeen (17) years, nor to any person who is an habitual user of alcoholic liquor or narcotic drugs. (Prior Code §30.5.)

5.16.060 Examining Board - Meetings.

The examining board shall meet at such times as it may in its discretion determine; provided, however, that every applicant for a permit under this chapter shall be examined within thirty (30) days of the date of the filing of his application with the examining board. (Prior Code §30.6.)

5.16.070 Examining Board - Composition.

The examining board shall consist of the Chief of the Fire Department, the City Electrical Inspector and a third person to be designated by them. (Prior Code §30.7).

5.16.080 Examining Board - Compensation.

The members of the examining board shall serve without compensation. (Prior Code §30.8).

Chapter 5.20

DANCE PERMITS

Sections:

5.20.010 Definitions.
5.20.020 Public Dance Permit Required.
5.20.030 Exclusions from Dance Permit Requirement.
5.20.050 Application for City Dance Permit.
5.20.060 Public Noticing of Dance Permit Applications.
5.20.070 Issuance of Certain Dance Permits – Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.
5.20.080 Permissible Dance Permit Conditions.
5.20.090 Appeal From Denial or From Conditional Approvals or From a Renewal Application.
5.20.100 Duration of Dance Permits.
5.20.110 Renewal of Dance Permits.
5.20.120 Display of Dance Permits.
5.20.130 Dance Permits Not Transferable.
5.20.140 Dance Permittee Reporting of ABC License Violations.
5.20.150 Suspension or Revocation of a Dance Permit.
5.20.160 New Permit Application After Revocation or Denial.
5.20.170 No Outdoor Dancing – Nightclub Permits.
5.20.180 Pre-Approval Application Process.
5.20.190 Adoption of Rules and Regulations; Application/Renewal Fees.

5.20.010 Definitions.

For the purposes of this Chapter, the following words and phrases used herein are defined as follows:

A. ABC LICENSE. The license issued by the California Department of Alcoholic Beverage Control for the sale and consumption of alcoholic beverages.

B. APPLICANT. A person as defined by this Chapter who seeks the issuance of a dance permit.

C. DANCE OR DANCING. Movement of the human body and feet in rhythm generally to music.

D. DANCE ESTABLISHMENT. A person or business who conducts a public dance or public dances.

E. DANCE PATRONS. Customers, invitees, or members of the public that attend a public dance.

F. DANCE PERMIT. Either a Limited Dance Permit, a Live Entertainment Dance Permit, or a Nightclub Dance Permit.

G. ENTERTAINMENT DISTRICT. The area of the City defined in the City of Santa Barbara's General Plan as the Entertainment District, which is bounded by Sola Street on the north, Santa Barbara Street on the east, Chapala Street on the west, and Cabrillo Boulevard on the south.

H. LIMITED DANCE PERMIT. A Dance Permit issued to a dance establishment which requests such a permit, and which provides that the following permit restrictions apply:

1. The permit allows no more than twelve (12) public dances on twelve (12) separate days per year;
2. Dancing at the establishment must end prior to midnight on each occasion;
3. Such other conditions which the Chief may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures.

I. LIVE ENTERTAINMENT DANCE PERMIT. A Live Entertainment Dance Permit issued to a dance establishment which requests such a permit, and which provides that the following permit restrictions apply:

1. The music (including singing) provided for the dancing is performed live exclusively and is not pre-recorded;
2. The music (including singing) provided for the dancing is not amplified in any way and is exclusively acoustic music;
3. The dance establishment does not offer dancing more than three (3) nights per week;
4. Such other conditions which the Chief of Police may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures;
5. Dancing within the establishment will not continue beyond one o'clock a.m. each day that dancing and live music is offered at the establishment.

J. NIGHTCLUB DANCE PERMIT. A dance permit issued by the City, which is not classified as or restricted like a Limited Dance Permit or a Live Entertainment Dance Permit.

K. PERSON. Includes both the singular and the plural, and shall mean any individual, business, firm, company, corporation, association, partnership, legal entity, or society (exclusive of public agencies), including the authorized agents thereof.

L. PUBLIC DANCE. Any gathering of persons in or upon any nonresidential or commercial premises where dancing occurs, either as the main purpose for such gathering or as an incident to the conduct of another business, and to which the public is admitted. (Ord. 5445, 2008.)

5.20.020 Public Dance Permit Required.

No person shall conduct or operate a public dance in the City of Santa Barbara without first obtaining a City dance permit as required by this Chapter. (Ord. 5445, 2008.)

5.20.030 Exclusions from Dance Permit Requirement.

A City dance permit under Section 5.20.020 of this Chapter is not required for the following activities:

A. DANCES AT CITY FACILITIES. Any public dance conducted in a park or recreational facility owned or operated by the City of Santa Barbara, where the City facility has been properly reserved for a private non-commercial function and the dancing has been otherwise expressly permitted by the City for that facility;

B. CLUB DANCES. Any public dance conducted by or sponsored by any club or similar association organized for charitable, dramatic, or literary purposes, where the club or association has pre-established association membership and it holds regular meetings for purposes other than dancing, provided the net proceeds from the public dances are used exclusively for the purposes which the club or association has been officially established;

C. NONPROFIT YOUTH DANCES. Any public dance sponsored by any nonprofit public benefit organization (as established pursuant to state law) whose primary objective is the sponsoring of youth activities so long as all of the following requirements are met:

1. No person eighteen (18) years of age or older may be in attendance, unless such person is a bona fide student at, or member of, the sponsoring agency or organization;
2. No alcoholic beverages are served or available at the premises where the dance is held;
3. Chaperones from the sponsoring agency are present on the premises at the rate of two adults (who are at least twenty-five years of age or older) for every one hundred guests;
4. The dance ends by midnight, and the establishment and the adjoining parking lots are promptly vacated no later than 12:30 a.m. after the dance.

D. PRIVATE CLUB DANCES. Dancing occasionally provided for members and their guests at a private club having a pre-established membership, where admission to the dance is not open to the general public and where the dance is not held within premises licensed as a restaurant or premises licensed by the ABC for the public sale of alcohol to the general public. For purposes of this Section, "private club" shall mean a corporation or association operated solely for objects of national, social, fraternal, patriotic, political, or athletic nature, in which membership is by application and regular dues are charged, and the facilities of the club belong to members, and the operation of which is not primarily for monetary gain;

E. PRIVATE PARTIES. Dancing occasionally provided for invited guests only at a private non-commercial event such as a wedding reception, an anniversary party, private banquet, or similar private or family celebration, where there is no admission charge and where the invitation is not concurrent with the event or party;

F. CITY-SPONSORED DANCES AND DANCE LESSONS. A dance or dance lessons provided or sponsored by the City of Santa Barbara.

G. CHURCH DANCES. Dancing occasionally conducted or sponsored by any religious or other corporation or organization exempt from taxation pursuant to Internal Revenue Code Section 501, where all net proceeds from the dance (including all net proceeds from refreshments sold or served at the dance) are used exclusively for the charitable, religious, or benevolent purposes of such corporation or organization;

H. SCHOOL PERFORMANCES. Performances or student recitals by students or performers at educational institutions (as defined by the Education Code), where such performances are part of an educational or instructional curriculum or program;

I. THEATRICAL PERFORMANCES. Dancing on a stage as part of a theater performance in a play or a similar dramatic or musical theater production or in connection with performances permitted pursuant to subparagraph (A)(2) of Santa Barbara Municipal Code Section 28.81.020;

J. PRIVATE DANCE INSTRUCTION. Dance lessons or dance instruction by a business, provided such lessons or instruction begin and end prior to 9:00 p.m. each day.

K. PHYSICAL FITNESS CENTERS. Physical exercise to music provided by an athletic club, gym, or similar physical fitness center. (Ord. 5445, 2008.)

5.20.050 Application for City Dance Permit.

A. DANCE PERMIT APPLICATIONS. An application for any type of dance permit shall be filed with the Chief of Police on the required departmental application form, which form shall provide at least all of the following information:

1. The name and permanent address of the applicant and all persons having any financial interest in the dance establishment, including all partners, members, or stockholders thereof, and including the owner of the real property where the public dancing is to be located;
2. The maximum number of persons who are expected to be present within the dance establishment at any one time;
3. For a new business establishment, the proposed opening date, and hours and days of operation of the dance establishment, in particular those days and hours when dance music will be provided;

4. For Limited Dance Permit applications, the dates and hours when dancing will occur and, for Live Entertainment permit applications, the days of the week for which dancing is proposed;

5. A detailed architectural site or floor plan (drawn to scale) depicting the interior of the dance establishment, including, in particular, the location, size and number of dance floors, all windows, doors and exits, and all tables and chairs and other seating within the establishment;

6. For a Nightclub Dance Permit application, a noise mitigation site plan (drawn to scale) of the interior of the dance establishment, including, in particular, the locations and specifications of all speakers, televisions, video monitors, and all other audio and amplification equipment, and disc jockey booth, as well as the location of any stage or other area where musicians will perform along with a narrative explanation of how the establishment will mitigate adverse noise impacts on surrounding properties during the operation of the nightclub;

7. For a Nightclub Dance Permit application, a business plan for the operation of the dance establishment, such as statement of the applicant's business goals for the dance establishment, the age group of the patrons the business will seek to attract, the type of music which will generally be played, and a general description of the applicant's plan for achieving its business goals;

8. For a Nightclub Dance Permit application, a comprehensive security plan for allowing the establishment to maintain order at all times, including, but not limited to, the following plan information:

a. The number of designated security personnel to be available on the premises depending or based on weekday or weekend nights.

b. A security site plan (including a scaled drawing) depicting and describing the proposed security arrangements and showing where security personnel will be stationed during the hours of 8:00 p.m. until closing each night.

c. The designation of a security manager (or managers) by name and the cell phone contact numbers for such managers, which information shall be kept current with the Police Department at all times by the permittee;

9. The name or names of the those persons (including cell phone contact numbers) designated by the owners of the establishment as having the day to day management and supervision authority over the proposed dance establishment (as the designated "general manager(s)"), which manager information and phone numbers shall be kept current with the Police Department by the applicant at all times;

10. Whether or not the applicant or any other person(s) having an interest in the establishment (including the designated security managers) have been convicted of a misdemeanor or felony offense, and if so, the nature of such offense(s), and the sentence(s) received therefor, including whether any person so convicted remains on probation or parole;

11. A "Land Use/Building Permit Clearance" form or other required approval issued by the Community Development Department, certifying in writing that the zoning for the dance establishment premises allows such a use as that being proposed and that all required building and other uniform construction code permits necessary to legally operate the establishment have been duly obtained, and all City-approved final inspections have been received;

12. Completed Police Department fingerprinting for the applicant(s) (including all persons having an ownership interest in the dance establishment to be permitted), as well as fingerprinting for the required designated security managers and the establishment's designated general manager(s);

13. The submission to the Police Department of a written inspection report on the dance permit establishment location prepared by the City Fire Marshal in order to allow the Department to assess and review the dance establishment's compliance with the California Fire Code requirements as adopted by the City; and

14. Such other information as the Police Chief shall deem necessary for the proper processing and review of the application. (Ord. 5445, 2008.)

5.20.060 Public Noticing of Dance Permit Applications.

A. NIGHTCLUB DANCE PERMIT NOTICING. Notice of the required Board of Fire and Police Commissioners public hearing regarding the issuance of a Nightclub Dance Permit shall be provided to the public by the applicant in each of the following ways:

1. Mailed Notices to Neighbors. Written notice of the Board hearing shall be sent by first class United States mail (postage prepaid) not less than ten calendar days prior to the scheduled Board hearing, to all owners of real property as shown on the latest equalized assessment roll within a radius of two hundred feet (200') from the real property parcel for which the Nightclub Dance Permit is proposed.

2. Posting the Exterior of the Premises. The applicant shall post a notice on the exterior of the establishment for which the Nightclub Dance Permit is sought at least fourteen (14) calendar days prior to the Board hearing, and for no less than ten consecutive days, in a visible location in a manner as required by the Chief of Police.

3. Contents of Required Public Notice and Posting. The Chief of Police will provide an applicant with the required form of the notice to be mailed and of the posted notice necessary to provide public noticing required by this Section, and only such forms of notice shall be used for this purpose as established in the approved Dance Permit Ordinance guidelines.

B. LIMITED DANCE AND LIVE ENTERTAINMENT DANCE PERMIT NOTICING. Public noticing of a dance permit application for a Limited Dance Permit or for a Live Entertainment Dance Permit need only be provided by posting of the notice in accordance with subparagraph (A)(2) above, unless the Chief of Police determines that additional public notice requirements (including mailed notices) consistent with this Chapter are appropriate under the circumstances of the particular application. (Ord. 5445, 2008.)

5.20.070 Issuance of Certain Dance Permits - Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.

A. ISSUANCE OR RENEWAL OF A LIMITED DANCE PERMIT OR A LIVE ENTERTAINMENT DANCE PERMIT BY THE CHIEF OF POLICE.

1. Issuance. Upon the completion of the required public posting of an application for a Limited or Live Entertainment Dance Permit as established by Section 5.60.060(B), an application for a Limited Dance Permit or for a Live Entertainment Dance Permit shall be issued in the first instance by the Chief of Police (or the Chief's designated departmental representative) after the completion of a public meeting on the application at a date, time, and location established for the meeting by the Chief and as stated in the public noticing for the dance permit application.

2. Conditions of Approval; One Year Validity; Process for Renewal. Limited and Live Entertainment Dance Permits may be conditioned as deemed appropriate by the Chief of Police in accordance with the standard permit conditions provided for in Section 5.20.080 hereof. Limited Dance Permits and Live Entertainment Dance Permits issued under this subparagraph shall be valid for a period not to exceed one year and may be renewed annually upon application by the permittee filed not less than thirty (30) days prior to the expiration date of the permit. Upon a denial of a permit, or refusal of an applicant to accept a required condition of approval, the Chief shall provide the applicant with written explanation of the reasons for the denial or for the condition, and such reasons shall be one or more the grounds for denial set forth in subsection C hereof.

3. Renewal Applications. A renewal of a Limited or Live Entertainment Dance Permit need not require a new application, provided that original application information remains current and correct and the renewal request is consistent with the requirements established for such requests in the Dance Permit guidelines authorized by this Chapter.

4. Referral of a Limited or Live Entertainment Dance Permit to the Board. The Chief of Police, when appropriate, may refer an original application (or a renewal application) for a Limited or Live Entertainment Dance Permit for premises located within the City's Entertainment District to the City's Board of Fire and Police Commissioners for action on the application consistent with the requirements of this Chapter.

B. APPROVAL, CONDITIONAL APPROVAL, OR DENIAL OF A NIGHTCLUB DANCE PERMIT APPLICATION. Within 45 days of the filing of a completed application for a Nightclub Dance Permit (as such completion is determined by the Chief of Police), and upon the completion of the public noticing required by Section 5.60.060, the Board of Fire and Police Commissioners shall review the application for a Nightclub Dance Permit and either issue the permit, issue the permit with appropriate conditions consistent with Section 5.20.080 hereof, or deny the application for a Nightclub dance permit.

C. GROUNDS FOR DENIAL OF A NIGHTCLUB DANCE PERMIT. The Board shall deny an application for a Nightclub Dance Permit only when it has evidence sufficient to make or one or more of the following findings for denial:

1. The applicant has made a false statement of material fact on the dance permit application or has omitted a material fact as part of the dance permit application.
2. The applicant or any person designated by the applicant to exercise on-site managerial control over the nightclub has been convicted of a crime which is substantially related to the qualifications, functions, or required duties of a permittee, within the past five years.
3. The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location, such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property.
4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure; or b. it lacks the appropriate and necessary ingress and egress for entering or exiting the structure in terms of its occupancy limitations and the applicable fire code requirements.
5. The proposed plan for maintaining security at the nightclub is inadequate. (Ord. 5445, 2008.)

5.20.080 Permissible Dance Permit Conditions.

A. IMPOSITION OF CONDITIONS. The Chief of Police (or his designee) or the Board may, upon issuing a Dance Permit, impose the following permit conditions relating to the operation of the dance establishment:

1. A condition limiting the days, hours and location of the operation of the dance establishment and establishing that dancing shall not be permitted under any circumstances between the hours of 1:30 a.m. and 8:00 a.m.;

2. A condition restricting separate entrances, exits, and restroom facilities on the premises, or other similar restrictions designed to prevent minors from obtaining alcohol are required;

3. A condition on the number of persons allowed on the premises at any one time;

4. A condition requiring full compliance with the security and noise mitigation plans as approved;

5. A condition mandating that the closure of certain doors and windows is required and, if necessary, the appropriate hours for such closures;

6. Conditions describing the circumstances under which the Chief of Police must receive advance notice of a particular dance event or a business promotion if that event/promotion is not held as part of the regularly scheduled events of the business;

7. Any additional conditions or measures the establishment must undertake as security precautions in order to control the conduct of patrons as necessary to minimize or prevent disorderly conduct or fighting or overcrowding within the permit establishment;

8. A condition imposing those measures the permittee must undertake to remove litter attributable to the establishment (including litter in and around the establishment);

9. Such other conditions or measures related to public health, safety, and welfare as the Chief of Police may deem appropriate, which may be needed to maintain appropriate security within the establishment (and public areas immediately adjacent to the establishment) or needed to minimize adverse noise impacts on the neighboring property owners or residents. (Ord. 5445, 2008.)

5.20.090 Appeal From Denial or From Conditional Approvals or From a Renewal Application.

A. NIGHTCLUB DANCE PERMIT APPEALS. The denial or approval (including any conditions imposed thereon) of any application for a Nightclub Dance Permit under this Chapter by the Board of Fire and Police Commissioners may be appealed to the City Council by the applicant or by any interested person pursuant to the provisions of Section 1.30.050 of this Code. This right of appeal shall also include an action taken by the City with respect to the renewal or non-renewal of a Nightclub Dance Permit.

B. LIMITED PERMIT OR LIVE ENTERTAINMENT PERMIT APPEALS. The denial or the approval (including any conditions imposed thereon) on any application (including a renewal application) for a Limited Dance Permit or a Live Entertainment Dance Permit by the Chief of Police may be appealed to the City Administrator, which decision on appeal shall be final. The City Administrator is hereby authorized to refer such an appeal to a more appropriate hearing officer or body in the manner described in subsection (b) of SBMC Section 1.30.050, as the City Administrator may deem appropriate. Such a referral may be for the purposes of obtaining a recommendation on the appeal or for other appropriate action on the appeal. This right of appeal shall also include any action taken by the City on a Limited or Live Entertainment Dance Permit renewal application. (Ord. 5445, 2008.)

5.20.100 Duration of Dance Permits.

A. NEW PERMITS - ONE YEAR DURATION. A dance permit issued pursuant to this Chapter shall be valid for one year from the date of issuance.

B. DATE OF EXPIRATION FOR PERMITS VALID AS OF THE ADOPTION OF THIS CHAPTER. Unless an earlier expiration date is specified in a valid dance permit itself, a dance permit issued on or before the effective date of the ordinance enacting this Chapter shall be valid for one year following the anniversary date of the original issuance of the establishment's valid dance permit. (Ord. 5445, 2008.)

5.20.110 Renewal of Dance Permits.

A. RENEWAL APPLICATION. A dance permittee may apply for dance permit renewal by submitting an application for administrative renewal to the Police Chief not less than 30 days prior to the expiration of any dance permit.

B. EXPIRATION STAYED. If a timely and complete application for renewal is filed, the dance permit's expiration date may be stayed at the discretion of the Chief of Police until a decision on the renewal application has been issued by the Chief.

C. POLICE CHIEF TO RENEW. The Police Chief shall review and approve the renewal of a dance permit if the Chief determines that no circumstances existed during the term of the prior valid dance permit, which circumstances would justify the suspension or revocation of the permit as specified in Section 5.20.150, or which circumstances necessitate revisions to the conditions of approval imposed on the Permit.

D. REFERRAL OF RENEWAL APPLICATION TO BOARD. Notwithstanding the above, the Police Chief may refer a decision on the renewal or non-renewal of a Nightclub Dance Permit to the Board of Fire and Police Commissioners for a hearing and decision on renewal application in the first instance and in a manner consistent with the requirements for an original Nightclub Dance Permit application. (Ord. 5445, 2008.)

5.20.120 Display of Dance Permits.

A dance permit issued pursuant to this Chapter shall at all times be publicly displayed in a conspicuous place within the dance establishment for which it was issued. In addition, a copy of the Permit and any conditions of approval shall be immediately produced and made available upon the request of any City fire inspector or City police officer. (Ord. 5445, 2008.)

5.20.130 Dance Permits Not Transferable.

A. TRANSFERS GENERALLY. Dance Permits issued pursuant to this Chapter are not transferable or assignable to another person or location whether by operation of law or otherwise. A transfer or assignment includes, but is not limited to, the following:

1. Partnership and LLC Transfers. If a permittee is a partnership, or a California limited liability company, a transfer of capital interest to a new partner or partners (or members) which computed alone or cumulatively with previous transfers would result or has resulted in the transfer of ownership of a more than twenty-five percent (25%) interest in the capital of the partnership or limited liability company.

2. Corporations. The transfer of more than twenty-five percent of the voting stock in a corporation which is either itself the permittee or is a general partner in a partnership which is the permittee.

B. CHANGES IN "DBA" STATEMENT. Any changes made by an applicant or permittee to the "doing business as" statement of the dance permit establishment shall be reported to the Police Department in writing within 30 days of such a change. (Ord. 5445, 2008.)

5.20.140 Dance Permittee Reporting of ABC License Violations.

A dance permittee shall report all ABC license violations occurring at the permitted business to the Chief of Police within 48 hours of the issuance of the notice of violation by the ABC to the permittee or the permittee's agent. (Ord. 5445, 2008.)

5.20.150 Suspension or Revocation of a Dance Permit.

A. SUSPENSION OF PERMIT BY POLICE CHIEF. The Police Chief may act to temporarily suspend any dance permit issued pursuant to this Chapter when, in the Chief's determination, a person holding a permit has violated any condition imposed on the issuance on the permit, or where the operation of the dance establishment has occurred in a way that constitutes an ongoing public nuisance.

A suspension shall be valid for a period not to exceed sixty (60) days from the date of the suspension unless, in the case of a Nightclub permit, a suspension is appealed by the permittee to the Board of Fire and Police Commissioners pursuant to this section, or the permittee has received a notice of revocation during the sixty (60) day suspension period, in which case the suspension shall be until the Board completes a revocation hearing and issues a written decision on revocation if such a hearing is requested by the permittee in a timely fashion.

B. REVOCATION OF A DANCE PERMIT. The Police Chief may, at the Chief's discretion, issue a written notice of intent to revoke a dance permit to a dance permittee. Such an intent to revoke shall be based only upon the Chief's receipt of information that one of the grounds for revocation listed herein has occurred. A notice of revocation shall be effective not less than ten (10) days after the issuance of a notice of intent to revoke.

C. APPEAL OF A SUSPENSION/REVOCATION DETERMINATION. A permittee who has received a notice of intent to suspend or a notice of intent to revoke a dance permit may appeal the proposed suspension or revocation to the Board of Fire and Police Commissioners by filing a written notice of appeal with the Chief of Police within 10 days of the date of the mailing of the notice of revocation or of the notice of suspension.

D. SUSPENSION/REVOCATION APPEAL HEARING. An appeal of the proposed suspension or revocation of a dance permit shall be conducted by the Board in accordance with the requirements of SBMC Chapter 1.30.

E. GROUNDS FOR SUSPENSION OR REVOCATION. The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations of any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or

2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or

3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the sale of alcohol to persons under 21 years of age) as determined by the ABC; or

4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of California Fire Code occupancy requirements have occurred on more than one occasion; or

5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or

6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration or the security plan.

F. APPEAL OF REVOCATION OF NIGHTCLUB PERMIT; REQUIREMENT FOR PRIOR MEDIATION.

1. Right to an Appeal Hearing by the City Council. The decision of the Board revoking or suspending a Nightclub Dance Permit may be appealed by the Permittee to the City Council pursuant to Section 1.30.050 of this Code.

2. Required Participation In Mediation. No such Nightclub Permit appeal shall be heard by the City Council unless, prior to the Council appeal hearing date, the appellant (where the appellant is not the dance permittee) shall have offered to participate in a private mediation process with the permittee in order to determine if the appellant's concerns with the permit application (or its operation) can be appropriately addressed by mutual agreement entered into by mediation, and such mediation has been completed. Such a mediation shall take the form described in Municipal Code Section 22.76.070 of this Code and the regulations adopted pursuant to this Chapter. The written recommendation of the mediator shall be forwarded to the City Council in connection with any Council appeal hearing. (Ord. 5445, 2008.)

5.20.160 New Permit Application After Revocation or Denial.

A. NO NEW APPLICATION - REVOCATION. When a dance permit is revoked or the initial application is denied, no new application for a dance permit from the same person or persons as the permittee for the same type of dance permit shall be allowed within one (1) year after such revocation or denial. (Ord. 5445, 2008.)

5.20.170 No Outdoor Dancing – Nightclub Permits.

No outdoor dancing may be permitted under a Nightclub Dance Permit or Live Entertainment Dance Permit issued for a location within the City's Entertainment District. (Ord. 5445, 2008.)

5.20.180 Pre-Approval Application Process.

An applicant for a dance permit which is not in legal possession or control of the real property upon which proposed dancing establishment would be operated may, at the applicant's discretion, apply pursuant to this Chapter for the conditional issuance of a dance permit, which permit shall, thereafter, be deemed issued only upon a written request to do so signed by the owner of the real property and by the applicant and provided to the Chief of Police. (Ord. 5445, 2008.)

5.20.190 Adoption of Rules and Regulations; Application/Renewal Fees.

The Chief of Police may adopt reasonable rules and regulations (including the setting of appropriate application and renewal fees and the establishment of required application forms) not inconsistent with this Chapter, for the public noticing of application, and for the review, granting, renewal, or denial of permits hereunder and the conduct of the permitted dance activities, which rules, regulations and fees shall be subject to the approval of the City Council by resolution. Copies of such rules and regulations shall be furnished to each dance permittee with the issuance of a dance permit and shall include an enforcement matrix chart describing a process for progressive administrative actions with respect to complaints about dance establishments and violations of this Chapter. (Ord. 5445, 2008.)

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Chapter 5.24

HANDBILLS

Sections:

5.24.010	**Definitions.**	**5.24.060**	**Permit Regulations.**
5.24.020	**Data Required on Handbills.**	**5.24.070**	**Permit Fee.**
5.24.030	**Where Distribution is Prohibited.**	**5.24.080**	**Permit Revocation.**
5.24.040	**Permit - Required in Addition to Other Provisions.**	**5.24.085**	**Separate Violation.**
		5.24.087	**Infraction.**
5.24.050	**Types of Permit.**	**5.24.090**	**Scope of Chapter.**

5.24.010 Definitions.

(1) Handbill - For the purposes of this chapter the word "handbill" means any commercial dodger, advertising circular, folder, booklet, letter, pamphlet, sheet, poster, sticker or banner.

(2) "Private handbill distribution system" means a business which has been determined by the Finance Director to be operated to distribute handbills in the City of Santa Barbara on a continuing, regular and routine basis. (Ord. 4765, 1992; Ord. 3839, 1976; Ord. 3695, 1974.)

5.24.020 Data Required on Handbills.

No person shall distribute or cause the distribution of any handbill, which does not have printed on the cover or face thereof or on the container thereof, the name, address and phone number of the distributor. In addition, the person, firm or organization causing the handbill to be distributed shall be clearly set forth therein. (Ord. 4079, 1980; Ord. 3695, 1974.)

5.24.030 Where Distribution is Prohibited.

No person shall distribute or cause the distribution of any handbill to any premises which has posted thereon in a conspicuous place, a sign of at least twelve (12) square inches in area, bearing the words "no advertising", unless the person distributing the handbill has first received the written permission of the person occupying or having control of such premises authorizing such distribution. (Ord. 4079, 1980; Ord. 3695, 1974.)

5.24.040 Permit - Required in Addition to Other Provisions.

It shall be unlawful for any person to commence, carry on or engage in the business of distributing handbills or to distribute handbills in the City, without complying with each and all of the provisions of this Chapter and without first having secured a permit from the Finance Director. "Person" as used in this section shall mean the permittee and not its employees or agents, provided, however, that its employees or agents, while distributing handbills, shall have in their possession a copy of the business tax receipt or handbill permit issued to said permittee pursuant to the provisions of this chapter. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.050 Types of Permit.

The following permits may be issued by the Finance Director pursuant to the provisions of this chapter:

(1) Temporary permit: Each such permit shall plainly state the number of handbills authorized to be distributed. Under the authority of such permit, the permittee may employ any number of persons to distribute such handbills not exceeding in the aggregate the number authorized by such permit, without further permit or tax as to such employees. Each such permit shall become null and void after the authorized number of handbills shall have been distributed and in any event shall expire on the tenth (10th) day after issuance.

(2) Annual permit: Each such permit shall be issued to a person, firm or organization upon a determination by the Finance Director pursuant to §5.24.010(2) that said person, firm or organization is operating a private handbill distribution system and upon the payment of the required permit fee. Said permit shall be valid for a period of one (1) year, unless revoked, and may be renewed annually. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.060 Permit Regulations.

Each recipient of a temporary or annual handbill permit shall comply with the following regulations:

(1) The permit holder shall cause its agents and employees to deliver the handbills only by placing them on the door-knobs or otherwise harmlessly attaching them to the building.

(2) The permit holder shall cause its agents and employees when distributing handbills to collect all visible material previously distributed by such permittee. The presence of such visible material shall be presumed to mean that said residence or business is vacant and said permittee shall cause no further material to be left thereat unless and until affirmative signs of occupancy are apparent.

(3) The permit holder shall cause its agents and employees to refrain from making deliveries at known vacant buildings or premises for which there have been requests to cease delivery.

(4) The permit holder shall take effective means to prevent the placement of handbills on streets, sidewalks and other public areas. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.070 Permit Fee.

No permit shall be issued under this chapter until a tax shall have first been paid to the Finance Director in accordance with Chapter 5.04. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.080 Permit Revocation.

In the event that the permittee or any of its agents or employees fail to comply with any or all of the provisions of this Chapter, its permit may be revoked by the issuing authority. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.085 Separate Violation.

Each day that a violation of this chapter occurs shall be considered a separate offense. (Ord. 4035, 1980.)

5.24.087 Infraction.

The violation of any provision of this chapter shall constitute an infraction. (Ord. 4067, 1980; Ord. 4035, 1980.)

5.24.090 Scope of Chapter.

This chapter shall apply only to handbills distributed to a residence or home. (Ord. 3839, 1976.)

Chapter 5.28

PEDICABS

Section:

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5.28.010 Purpose.

The Council finds that pedicabs have become an increasingly popular form of nonmotorized transportation for hire in the City of Santa Barbara. This Chapter is adopted in response to concerns due to this increasing prevalence of pedicabs. Regulations governing pedicabs, operators, and owners are necessary to protect the general safety and welfare of passengers using pedicabs for hire and pedestrians. (Ord. 5253, 2002.)

5.28.020 Definitions.

For purposes of this Chapter:

A. **City**. The City of Santa Barbara.

B. **Darkness**. Any time from one-half hour after sunset to one-half hour before sunrise and any time when visibility is not sufficient to render clearly discernible any person or vehicle on the highway at a distance of 1000 feet.

C. **Decal**. The numbered decal issued by the City to a pedicab owner for display on the pedicab to indicate that the pedicab is permitted to operate.

D. **Identification Badge**. A badge that identifies the operator with a color passport-size photo.

E. **Operator**. Any individual who operates a pedicab within the City of Santa Barbara.

F. **Owner**. Any person who owns a pedicab.

G. **Pedicab**.

1. A bicycle that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and that is used for transporting passengers for receipt of any form of consideration; or

2. A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting, passengers on seats attached to the trailer, sidecar, or similar device, that is operated by an individual, and that is used for transporting passengers for receipt of any form of consideration.

H. **Pedicab Operating Permit**. A written permit issued by the City authorizing a person to operate a pedicab.

I. **Person**. As used herein includes both singular and plural, and shall mean any individual, firm, corporation, association, partnership, or society exclusive of public agencies.

J. **Police Chief**. The Chief of Police for the City of Santa Barbara. (Ord. 5253, 2002.)

5.28.030 Permit Requirement to Operate Pedicab.

It shall be unlawful for any person to operate a pedicab within the City without first having obtained a pedicab operating permit issued by the City pursuant to this Chapter. Pedicab operating permits are the property of the City and are not transferable to any other operator. (Ord. 5253, 2002.)

5.28.040 Application for Pedicab Operating Permit.

A. Before operating a pedicab, an applicant shall apply for a pedicab operating permit in person.
B. The pedicab operating permit application form shall be in a form prescribed by the Police Chief.
C. The applicant shall provide the following information to complete the application under oath or affirmation:
   1. The applicant's full name and residence address;
   2. The applicant's date of birth; and
   3. The applicant's valid California or other United States driver's license.
D. The applicant shall provide the following material to complete the application:
   1. Proof that the applicant is eighteen years or older;
   2. Proof of ability to drive lawfully in the United States;
   3. Proof of a valid City of Santa Barbara business license;
   4. Two recent color passport-sized photographs; and,
   5. Such other material as the Police Chief may require and is approved by the Fire and Police Commission.
E. When an application has been denied, the applicant may not reapply for pedicab operating permit for one (1) calendar year from the date of denial, unless denial is without prejudice.
F. The Police Chief shall investigate the facts stated in an application for a pedicab operating permit and other relevant data. (Ord. 5253, 2002.)

5.28.050 Pedicab Operating Permit Fee.

The City shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of pedicab operating permits. (Ord. 5253, 2002.)

5.28.060 Duration of Validity of Pedicab Operating Permit.

Pedicab operating permits shall be valid for a period of one year from date of issuance. (Ord. No. 5253, 2002.)

5.28.070 Pedicab Operating Permit Renewal.

Pedicab operating permits shall be renewable annually upon filing and approval of a new application and payment of a pedicab operating permit fee as determined by the City Council. (Ord. 5253, 2002.)

5.28.080 Denial of Pedicab Operating Permit.

The Police Chief may deny issuance of a pedicab operating permit if an applicant:
A. Fails to comply with the requirements of this Chapter;
B. Misrepresents facts relevant to the fitness of the applicant;
C. Does not possess a valid driver's license issued by a state in the United States;
D. Has any type of driving restrictions issued by the State of California;
E. Is currently required to register pursuant to California Penal Code section 290;
F. Has been convicted of a crime involving moral turpitude, or narcotics; or
G. Has been convicted for hit and run, driving a vehicle recklessly or while under the influence of intoxicating alcohol or drugs within the three (3) years immediately preceding application for a pedicab operating permit. (Ord. 5253, 2002.)

5.28.090 Suspension or Revocation of Pedicab Operating Permit.

A. The Police Chief may suspend, for a period not to exceed 30 days, and may revoke a pedicab operating permit if the operator:
   1. Misrepresents facts relevant to the fitness of the operator if such misrepresentation becomes known after a permit has been issued;
   2. Violates the traffic laws of the City, County or State;
   3. Is convicted for misdemeanor reckless driving;
   4. Drives a pedicab known to the operator not to be in good order and repair;
   5. Knowingly falsifies material and relevant facts on an application for a pedicab operating permit;
   6. Is convicted or pleads nolo contendere to the violation of any law involving alcohol;

7. Is convicted or pleads nolo contendere to the violation of any law involving moral turpitude;
8. Operates any vehicle in a manner which constitutes a misdemeanor under the laws of the State of California; or
9. Repeatedly fails to comply with the applicable provisions of this Chapter or the rules and regulations prescribed by the Police Chief.

B. The Police Chief shall immediately suspend, for a period not to exceed 30 days, the pedicab operating permit of any operator upon the receipt of information reasonably sufficient and reliable to establish that the operator has committed a violation of law involving:
1. a felony;
2. a sex offense;
3. soliciting for prostitution;
4. a narcotics offense; or
5. has had a license to drive issued by the State of California either suspended or revoked by the State.

C. The Police Chief shall immediately revoke the pedicab operating permit if that operator has been found guilty by final judgment of a court of competent jurisdiction of a violation of the law involving:
1. a felony;
2. a sex offense;
3. soliciting for prostitution; or
4. a narcotics offense.

D. Upon suspension or revocation, the operator shall immediately surrender the pedicab operating permit to the Chief of Police. In the event of suspension, the Police Chief shall return the pedicab operating permit to its operator immediately after termination of the suspension period. (Ord. 5253, 2002.)

5.28.100 Identification Badges Issued to Pedicab Operators With a Pedicab Operating Permit.

A. The City shall issue an identification badge to an individual after that individual has been issued a pedicab operating permit.

B. While the pedicab is in operation, the pedicab operator shall wear the identification badge at all times on his or her person, in a manner clearly visible to the public.

C. It shall be unlawful for a pedicab operator to fail to wear an identification badge, in a manner clearly visible to the public, while operating a pedicab.

D. Identification badges are the property of the City and are not transferable to any other operator. In the event that an operator's pedicab operating permit is suspended or revoked, the operator shall also immediately surrender the identification badge to the Chief of Police. In the event of a suspension, the Police Chief shall return the identification badge to its holder immediately after termination of the suspension period. (Ord. 5253, 2002.)

5.28.110 Pedicab Decal.

A. It shall be unlawful for any owner to lease, rent, or allow a pedicab to be operated for hire within the City without first having obtained a decal issued pursuant to this Chapter. The decal shall be affixed to the pedicab on the rear or back side of the pedicab in a manner clearly visible to the public.

B. It shall be unlawful for any person to operate a pedicab that does not have a valid decal affixed to it.

C. Decals are the property of the City and are not transferable to any other pedicab. (Ord. 5253, 2002.)

5.28.120 Application for Pedicab Decal.

A. Before allowing a pedicab to be operated for hire, an owner shall obtain a pedicab decal.

B. The pedicab decal application form shall be prescribed by the Police Chief.

C. The applicant shall provide the following information to complete the application:
1. The full name and address of the applicant;
2. The name and address of all legal and registered owners of the pedicab; and
3. A description of the vehicle, including trade name, if any, serial number or owner identification number, and body style.

D. Applicants shall also provide proof of insurance in accordance with section 5.28.260 herein. (Ord. 5253, 2002.)

5.28.140 Requirements for Issuance of Pedicab Decal.

Pedicab decals will be issued only when a pedicab meets all of the following requirements:

A. A battery-operated headlight capable of projecting a beam of white light for a distance of 300 feet shall be permanently affixed to the pedicab;

B. Battery-operated taillights shall be permanently affixed on the right and the left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 500 feet to the rear of the pedicab; and

C. Those requirements related to bicycles listed in California Vehicle Code section 21201. (Ord. 5253, 2002.)

5.28.150 Pedicab Decal Fee.

The City shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of pedicab decals. (Ord. 5253, 2002.)

5.28.160 Duration of Validity of Pedicab Decal.

Pedicab decals shall be valid for a period of one year from date of issuance. (Ord. 5253, 2002.)

5.28.170 Pedicab Decal Renewal.

Pedicab decals shall be renewable annually upon filing of a new application and payment of a pedicab decal fee. (Ord. 5253, 2002.)

5.28.180 Denial of Pedicab Decal for Failure to Comply with Chapter.

The City may deny issuance of a pedicab decal if the Police Chief determines that the pedicab does not meet the requirements of this Chapter or applicable State law. (Ord. 5253, 2002.)

5.28.190 Suspension or Revocation of Pedicab Decal.

A. Decals may be suspended by the Police Chief for a period of one to thirty days or revoked at any time if the owner:

1. Fails to comply with the applicable provisions of this chapter or the rules and regulations prescribed by the Police Chief;
2. Fails to maintain insurance as required by Section 5.28.260;
3. Fails to notify the Police Chief thirty (30) days prior to the effective date of liability insurance cancellation or change of insurer;
4. Fails to maintain pedicabs in good order and repair as prescribed herein;
5. Provides false statements on an application for a decal;
6. Fails to pay any fees or damages lawfully assessed upon the ownership or operation of any pedicab licensed under this Chapter; or
7. Violates any of the provisions of this Chapter or any applicable City, State, or Federal laws, rules, or regulations.

B. Decals which have been suspended shall forthwith be surrendered to the Police Chief for a period covering the term of suspension. The Police Chief shall return the decal to its holder immediately after termination of the suspension period.

C. Decals which have been revoked shall forthwith be surrendered to the Police Chief by the holder thereof.

D. The Police Chief shall notify in writing and by certified mail, any decal holder whose permit has been suspended or revoked. Such notice shall state any and all reasons for such action as well as all laws or regulations violated by the decal holder. (Ord. 5253, 2002.)

5.28.200 Other Laws Applicable to Pedicab Owners and Operators.

Pedicab owner operators are subject to all applicable City, County, State, and Federal laws, rules, and regulations. (Ord. 5253, 2002.)

5.28.210 Report of Accidents.

Each holder of a decal and pedicab operating permit involved in any accident resulting in property damage or personal injury of any kind, shall within forty-eight (48) hours thereof give written report thereof to the Police Chief. A copy of a report required under State law shall be deemed sufficient for such purposes; otherwise, such report shall contain all information required with respect to reports otherwise required under state law as to amounts involved. (Ord. 5253, 2002.)

5.28.220 Minimum Age for Pedicab Operators.

It is unlawful for any individual under the age of eighteen to operate a pedicab. (Ord. 5253, 2002.)

5.28.230 Driver's License Requirement to Operate Pedicab.

A. It is unlawful for any individual without a motor vehicle driver's license issued by a state in the United States to operate any pedicab within the City.

B. While the pedicab is in operation, the pedicab operator shall have his or her valid driver's license on his or her person at all times. (Ord. 5253, 2002.)

5.28.240 Business License Requirement to Operate Pedicab.

It shall be unlawful for a person to operate a pedicab without first obtaining a business license. (Ord. 5253, 2002.)

5.28.250 Equipment Regulations for the Operation of Pedicabs.

A. It shall be unlawful for any person to operate, or cause to be operated, a pedicab during the hours of darkness, without a permanently affixed headlight capable of projecting a beam of white light for a distance of 300 feet.

B. It is unlawful for any person to operate, or cause to be operated, a pedicab during the hours of darkness, without using permanently affixed battery-operated taillights mounted on the right and left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 500 feet to the rear of the pedicab.

C. It is unlawful for any person to operate, or cause to be operated, a pedicab in an unsafe operating condition. (Ord. 5253, 2002.)

5.28.260 Insurance Requirements.

It shall be a condition precedent to the issuance of a decal that a completed certificate of insurance, on a form provided by the City, be filed with the City Clerk by the owner. Said certificate shall provide evidence of insurance in amounts and with conditions acceptable to the City. The owner's insurance shall remain in full force, at a level at least equal to the minimum requirements of the City, or the owner's decal shall be subject to revocation or suspension pursuant to this Chapter. (Ord. 5253, 2002.)

5.28.270 Right of Appeal to the Fire and Police Commission from Denial of Issuance of Pedicab Operating Permit or Decal.

A. The Police Chief shall notify the applicant that the issuance of his or her pedicab operating permit or decal has been denied. The Police Chief shall also notify the applicant of the right to appeal the denial to the Fire and Police Commission. Any written appeal shall be filed with the Police Chief within ten calendar days after service of notice of denial. Service shall be by regular postal service or personal delivery. The applicant shall set forth in the appeal the reason why the denial is not proper.

B. If no appeal is filed within the time allowed, the decision of the Police Chief to not issue the pedicab operating permit or decal shall be considered final.

C. The Fire and Police Commission shall hear an appeal within fifteen (15) days after a notice of appeal is filed with the Police Chief as required by this subsection.

D. A denial shall remain in effect until a duly filed appeal is heard by the Fire and Police Commission. The Fire and Police Commission shall suspend a pedicab operating permit for as long as a license to drive and vehicle issued by the State of California is suspended or revoked by the State. In the case of suspension for any other reason under this section, the Fire and Police Commission shall consider the propriety of the suspension and may either rescind or continue the suspension as may be required to protect public safety, peace and welfare. (Ord. 5253, 2002.)

5.28.280 Right of Appeal to Fire and Police Commission from Suspension or Revocation of Pedicab Operating Permit or Decal.

A. The City shall notify the pedicab operator or owner that his or her pedicab operating permit or decal has been suspended or revoked. The Police Chief shall also notify the pedicab owner or operator of the right to appeal the suspension or revocation to the Fire and Police Commission. Any written appeal shall be filed within ten calendar days after service of notice of suspension or revocation. The pedicab operator or owner shall set forth in the appeal the reason why the suspension or revocation is not proper.

B. If no appeal is filed within the time allowed, the pedicab operating permit or decal shall be considered suspended or revoked and the pedicab operator or owner shall immediately surrender the pedicab operating permit or decal in the manner prescribed by the City.

C. Once a timely appeal is filed, the suspension or revocation of the operating permit or decal shall be stayed pending the final determination by the Fire and Police Commission. (Ord. 5253, 2002.)

5.28.290 Procedure Upon Appeal.

A. If an applicant served with a notice of denial, suspension, or revocation chooses to appeal, he or she shall file an appeal within ten calendar days from the service of the notice.

B. Appeals to the Board of Fire and Police Commissioners

1. Any decision of the Police Chief which is a denial to issue or a suspension or revocation of any pedicab operating permit or decal shall not become final until fifteen (15) days after the date of transmittal of the written notice to the person affected by such decision, during which period the party to the action may appeal the decision in the manner provided herein at any time prior to the expiration date of the fifteen (15) day period. If no appeal is taken before the expiration of the fifteen (15) day period, the decision of the Police Chief shall be final.

2. The appeal of any decision shall be in writing signed by the party to the action briefly setting forth the reasons why such decision is not proper, stating an address at which the appellant will receive notices and filed with the Clerk of the City.

3. Upon filing an appeal, the party to the action shall be entitled to a hearing by the Fire and Police Commission within thirty (30) days after the date of filing the appeal.

4. The appellant (or a representative) shall have the right to present his or her case in person.

5. The Fire and Police Commission shall consider the case record as well as any statements offered by interested parties. The hearing will be conducted according to administrative rules relating to evidence and witnesses as adopted by the Commission.

6. If the Fire and Police Commission refuses to issue or restore a pedicab operating permit or decal, the party to the action, or such party's agent, shall not file a new application within three hundred sixty five (365) days from the date of final action by the Board of Fire and Police Commissioners.

7. If the Fire and Police Commission suspends a pedicab operating permit or decal, the Police Chief shall determine a period of suspension of not more than thirty (30) days, which is in accordance with the schedule of penalties developed by the Tax and Permit Inspector.

8. If the Fire and Police Commission’s action is to grant or restore a decal or permit, the Commission shall direct the Police Chief to issue or restore the certificate or license.

C. Appeals to the City Council

1. Appeals to the City Council from the decision of the Fire and Police Commission shall be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5253, 2002.)

5.28.300 Enforcement Authority.

The City is authorized to administer and enforce the provisions of this Chapter. The City may exercise any enforcement powers as provided in this code. (Ord. 5253, 2002.)

5.28.310 Enforcement Remedies.

Violations of this Chapter may be prosecuted as infractions or misdemeanors subject to the fines and custody provided in Municipal Code Chapter 1.20. The City Attorney may also seek injunctive relief and civil penalties in the Superior Court or pursue any administrative remedy provided in Chapter 1.25 of this Code. (Ord. 5253, 2002.)

5.28.320 Strict Liability Offenses.

Violations of this Chapter shall be treated as strict liability offenses. (Ord. 5253, 2002.)

5.28.330 City Held Harmless.

A decal holder shall, and by acceptance of the permit does, agree to hereby indemnify and hold the City of Santa Barbara, its officers, employees and agents from any and all damages, claims, liabilities, costs, suits, or other expense resulting from and arising out of said decal holder's operations. (Ord. 5253, 2002.)

5.28.340 General Pedicab Operation.

A. Any pedicab permitted by the City as a pedicab shall be operated according to the pedicab provisions of this Chapter.

B. Each operator shall carry in the vehicle a current map of the City. Upon request, the operator shall make the map available to the passenger.

C. Every pedicab shall have permanently affixed to the outside thereof, in a place readily to be seen by passengers, a frame covered with clear plastic, enclosing a card upon which shall be printed in plain, legible letters the schedule of rates authorized for carriage in such pedicab.

D. An operator shall not deceive any passenger who rides in the vehicle, or who expresses a desire to ride in such vehicle, as to that passenger's destination or the rate to be charged.

E. Every vehicle while in operation for the solicitation or transportation of passengers shall be attended by the operator at all times except when such driver is actually engaged in loading or unloading the vehicle, or in answering telephones in connection with the business.

F. An operator shall not leave the pedicab operating permit in an unattended or unsecured pedicab.

G. No owner or operator of a pedicab shall knowingly permit such pedicab to be used for unlawful purposes or knowingly to transport persons therein to places for such purposes.

H. It shall be the duty of the operator to give any passenger so requesting, a receipt in writing signed by the operator.

I. Operators shall not stop to load or unload passengers or their belongings in the intersection of any street or any marked crosswalks. No pedicab shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

J. An operator shall assist a passenger in and out of a pedicab when requested; however, a driver is not required to lift a passenger.

K. No operator shall transport any more persons, including the operator, than the manufacturer's designated seating capacity for the pedicab.

L. All operators shall comply with all reasonable and lawful requests of a passenger as to the speed of travel and the route to be taken.

M. Cruising is permitted, but only when such movements do not usually obstruct the normal flow of traffic. If it is determined by the Police Chief upon review of actual traffic data that cruising significantly obstructs the normal flow of traffic at certain locations or times, the City Administrator may, by administrative order, prohibit cruising at such locations or times.

N. Every pedicab shall be operated in accordance with the laws of this State, the provisions of this Chapter and other ordinances and laws of the city, with due regard to the safety, comfort and convenience of passengers and the general public.

O. The Police Chief is empowered to make regulations necessary to make effective the provisions of the Chapter, to cover emergencies or special conditions. In the event that after ninety (90) days the experimental regulations have proved satisfactory, they may be placed into effect permanently by authorization of the Fire and Police Commission. (Ord. 5253, 2002.)

Chapter 5.29

PARATRANSIT SERVICE

Sections:

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5.29.300 Operation of Paratransit Service Vehicles.
5.29.310 Insurance Requirements.

5.29.005 Applicability of Chapter.

No person, as defined herein, who engages in the business of providing paratransit services shall do so without first having complied with the conditions and regulations of this Chapter. (Ord. 4206, 1983.)

5.29.010 Definitions.

A. ASSOCIATION. Any group of two or more owners, as defined herein, operating vehicles licensed hereunder under unified control and having a common trade name and common color scheme.

B. CHIEF OF POLICE. The police chief for the City of Santa Barbara, or his or her designee.

C. CITY. The City of Santa Barbara.

D. CRUISE or CRUISING. The movement over the public streets of a city of a taxi driver, not at the time actually transporting a passenger for hire or parcel for hire, in search of or solicitation of prospective passengers; except, however, the term shall not include a taxi proceeding to answer a call for taxi service from an intending passenger, and taxis returning to the nearest authorized taxi stand or company garage by the most direct route, after having discharged a passenger or passengers.

E. DEMAND RESPONSIVE SERVICE. A form of paratransit services characterized by flexible routing and scheduling modified to meet the specific travel needs of users.

F. DRIVER. Any person who operates a vehicle licensed hereunder whether as agent, employee or otherwise of an owner, or under the direction of an owner as defined herein.

G. DRIVER'S PERMIT. A certificate which authorizes operation of a paratransit vehicle.

H. GROUP RIDE. Shared use of a vehicle where all of the passengers enter at the same point of origin and disembark at the same destination either on call or by prearrangement and pay a single fare for the trip.

I. INDEPENDENT GARAGE. Any garage or mechanic engaged in auto repair licensed by the State and not affiliated or associated with the taxi owner or driver whose taxis are being inspected.

J. LESSEE. Any person who enters into an approved lease as defined herein.

K. LIMOUSINE. Every motor vehicle designed to carry passengers, of private appearance (except as to license plates), need not be equipped with a taximeter; and used for the transportation of persons for hire over and along public streets, under the direction of passengers or persons hiring such limousine, of which the charge or fee for its use is based upon rates per hour, per trip, per mile, per day, per week, or per month.

L. LIMOUSINE TAXI. Any vehicle of distinctive color or insignia which provides taxi service, is equipped with a taximeter, and is over 18 feet in length.

M. MANIFEST. A daily record prepared by a taxi driver of all paid and non-paid trips.

N. OWNER. Any person, firm, corporation or other form of business organization having proprietary control, or right to proprietary control, of any vehicle engaged in the business of providing paratransit service, as defined herein.

O. OWNER'S PERMIT. A certificate which authorizes operation of a paratransit service in the City and which is issued to any person, firm, corporation or other form of business organization having proprietary control of any vehicle engaged in the business of providing paratransit services.

P. PARATRANSIT SERVICE. Taxi, shared-ride, limousine and other transportation services for which a fee is charged and which does not involve self-driving.

Q. PERSON. Both singular and plural shall mean and include any individual, firm, corporation, association, partnership or society, exclusive of public agencies.

R. PREMIUM TAXI SERVICE. Exclusive use of a taxi by one passenger at a time, with the time of pickup and origin and destination points specified by the passenger.

S. SHARED TAXI SERVICE. Nonexclusive use of a taxi vehicle by two or more passengers traveling between different origin and destination points.

T. TAXI. Any vehicle of distinctive color or insignia which provides taxi service and is equipped with a taximeter.

U. TAXIMETER. Any instrument or device in a vehicle which registers and calculates at pre-determined rates the charge for hire of such vehicle in dollars and cents in accordance with the distance traveled and/or time elapsed.

V. TAXI SERVICE. Any public passenger transportation service available for hire on call or demand over the public streets of the city, in a vehicle of distinctive color or insignia, operated by a driver licensed hereunder, and which is equipped with a taximeter. Such service shall not be provided over a defined route but between such points and over such routes as may be directed by the passenger or person hiring the same, and irrespective of whether the operations extend beyond the boundary of the city.

W. TAXI STAND. Any portion of a street designed for the exclusive use of taxis while waiting for employment.

X. WAITING TIME. Time spent while a taxi is waiting and available to a passenger beginning 5 minutes after the time of arrival at the place to which it has been called; or time spent at the special instance and request of a passenger after such passenger has first engaged and entered a taxi to make a trip. (Ord. 5360, 2005; Ord. 5254, 2002; Ord. 4206, 1983.)

5.29.015 Exemption.

A vehicle is exempt from this Chapter if it is:

A. licensed and regulated by the California Public Utilities Commission or

B. is operated by a governmental entity. (Ord. 4206, 1983.)

5.29.020 Permit Required.

It shall be unlawful to operate any paratransit service within the City without first having obtained an owner's permit from the City. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.025 Owner's Permit Application.

An applicant (or authorized agent) for an owner's permit shall file with the Chief of Police a sworn application for such a permit stating the following information:

A. The full name and the home and business address of the applicant or, if the applicant is a corporation, a certified copy of the Articles of Incorporation, the names and business addresses of all officers, directors and stockholders owning or controlling 10% or more of the stock of such corporation and the percentage of ownership of each of said stockholders. If the applicant is a partnership, the application shall include a copy of the applicant’s certificate or statement of partnership and a list of all general and/or limited partners of the applicant. If the applicant is a limited liability company, the application shall include a certified copy of the applicant’s articles of organization and a list of all managers and members of the applicant.

B. The trade name(s), if any, and the telephone number(s) under which the applicant does or proposes to do business.

C. A City certificate of insurance establishing compliance with Section 5.29.310 of this Code and proof that all required insurance policies have been paid for thirty (30) days in advance.

D. The number of vehicles actually owned and/or the number of vehicles proposed to be operated by the applicant on the date of application.

E. The seating capacity and design of the vehicle(s) and the registered and legal owner of each and every vehicle.

F. The character and location of maintenance and administrative facilities to be used, if any.

G. A description of the communications systems to be used.

H. A description of services to be rendered, and hours of operation.
I. An agreement by the applicant to maintain a driver's daily manifest for each and every vehicle.
J. A sample, proposed driver's daily manifest.
K. Any previous denial, revocation or suspension by any public agency in the State of California of a certificate, permit, or license applied for or held by the applicant or any person, as defined herein, having a financial interest in the applicant's proposed business. Such information shall also state the reason for the denial, revocation or suspension.
L. The brand name(s), model number(s) and other identifying information showing the types of taximeters to be used as required by Section 5.29.100.
M. A certificate or other written evidence that the Santa Barbara County Weights and Measures Department or a state registered device repairman has tested and certified, not more than six months preceding the application date, the accuracy of the taximeter attached to the taxicab and that meters which will be made operative are affixed with valid annual accuracy seals.
N. The specific experience of the applicant in the transportation of passengers for hire.
O. The applicant's schedule of rates, with a statement indicating charging of rates by taximeter, if any.
P. A proposed color scheme and/or insignia which shall be unique and easily distinguishable from color schemes or insignia approved for use by other applicants.
Q. Any other pertinent information the Chief of Police may require.
R. Any additional information that the applicant wishes to submit in support of the application.
S. A state certificate of compliance or other writing dated not more than six months preceding the application date, issued by a state-certified examiner or examiners, and evidencing that each taxicab complies with prevailing equipment standards as specified by the Chief of Police. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.030 Issuance.

After consideration of the factors prescribed in this Chapter, the Chief of Police shall grant an owner's permit for the number of vehicles applied for (or a lesser number) or refuse to issue an owner's permit. If the application is denied, the unsuccessful applicant shall be notified within 10 days from the date of denial by certified mail, directed to the address shown on the application, stating the specific reasons for denial. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.040 Form.

The owner's permit shall state the following:
A. The name, address and trade name, if any.
B. The number of vehicles the operation of which is authorized by the permit for operation.
C. The dates of issuance and expiration.
D. That the owner's permit is being issued subject to the provisions of this Chapter and all of the laws and ordinances governing the operation of such vehicles.
E. The type of service licensed. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.045 Permit Term.

Every owner's permit issued shall be valid from the date of issuance until the date of expiration or until surrendered, revoked or suspended as provided herein. (Ord. 4206, 1983.)

5.29.050 Determination of Owner's Permit Issuance.

The Chief of Police shall issue an owner's permit unless application of 5.29.060 requires denial. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.060 Denial of Owner's Permit.

An owner's permit application shall be denied for any of the following reasons:
A. Failure to comply with Sections 5.29.020 and/or 5.29.025.
B. Conviction of a felony or violation of any narcotics law or of any law involving moral turpitude within three (3) years preceding the date of the application.
C. If the proposed color scheme or insignia to be used on the vehicles is the same or confusingly similar to that which has already been approved. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.070 Revocation or Suspension of Owner's Permit.

A. Owner's permits may be suspended by the Chief of Police for a period of one to thirty days or revoked by the Board of Police and Fire Commissioners for any of the following reasons:

1. Failure to maintain insurance as required by this Chapter, including renewal of insurance prior to the expiration date of the policy.
2. Failure to notify the Chief of Police thirty (30) days prior to the effective date of liability insurance cancellation or change of insurer.
3. Failure to maintain vehicles in good order and repair as prescribed herein.
4. False statements on an application for an owner's permit.
5. Failure to pay any fees or damages lawfully assessed upon the ownership or operation of any vehicle licensed under this Chapter.
6. Failure to maintain driver's daily manifests or falsifying such manifests.
7. Repeated violations by the owner's permit holder or such permit holder's drivers of the traffic laws of the city, county or state.
8. Violation of any of the provisions of this Chapter.
9. Knowingly maintaining any taximeter which is inaccurate and results in overcharges to any passenger.

B. The owner's permit shall be suspended as follows at any time the insurance policy is not renewed or otherwise not in effect by 3 p.m. on the last business day prior to the expiration date of the policy as required by this Section:
1. if for a period of no less than three (3) days for the first violation in a one (1) year period;
2. fifteen (15) days for the second violation in a one (1) year period; and
3. revoked for the third violation in a one (1) year period.

C. Owner's permits which have been suspended shall forthwith be surrendered to the Chief of Police for a period covering the term of suspension. The Chief of Police shall return the permit to its holder immediately after termination of the suspension period.

D. Owner's permits which have been revoked shall forthwith be surrendered to the Chief of Police by the holder thereof.

E. The Chief of Police shall notify in writing and by certified mail, any owner's permit holder whose permit has been suspended or revoked. Such notice shall state any and all reasons for such action as well as all laws or regulations violated by the owner's permit holder. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.080 Penalties.

In addition to the general penalty provision contained in this Code, the City Council may, by resolution, adopt a schedule of penalties for specific violations of this Chapter. (Ord. 4206, 1983.)

5.29.090 Owner's Permit - Not Transferable.

An owner's permit shall not be assigned, transferred, hypothecated, pledged or mortgaged. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.100 Taximeter.

A taxi equipped with a taximeter previously approved by the Chief of Police (and not displaying an "off duty" sign) shall comply with the following:

A. It shall be unlawful for any person to operate or to cause a taxi for hire to accept any passenger for hire or to carry any paying passenger unless the taximeter has been approved by the Director of the Department of Agriculture, as authorized under Section 12107 of the California Business and Professions Code and any other laws or regulations granting such authority. Such taximeter shall be in operation at all times when any such person other than the driver/operator is riding therein.

B. It shall be the duty of every owner operating a taxi to keep the taximeter in proper condition so that it shall, at all times, accurately indicate the correct charge for the distance traveled and waiting time.

C. Every person using a taximeter shall comply with the provisions of the California Administrative Code, Title 4, Article 1, and Division 5 of the California Business and Professions Code.

D. The taximeter shall be set in operation at the time a passenger enters the taxi and stopped when the taxi is halted to discharge such passenger.

E. No passengers shall be grouped together without the expressed consent of the first passenger who hires the taxi. If consent to group is granted, the fare to be charged shall be determined upon mutual agreement by the driver and the prospective passengers prior to boarding a taxi.

F. No charge shall be made for premature response to a call.

G. The taximeter shall be certified annually by the County of Santa Barbara Sealer of Weights and Measures. The date of certification shall not be more than thirteen (13) months old.

H. The taximeter shall not charge a fare greater than the posted rate. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.110 Taxi Fares

Effective December 31, 2005, all taxis shall post their rates on the exterior of the taxi, on both sides of the vehicle. If a taxi has one or more rates, the taxi shall post the maximum rate or all rates. The size of the lettering used and the placement of the rate(s) shall be in a standard manner approved by the Chief of Police. (Ord. 5360, 2005.)

5.29.115 Exclusive Use of Taxis.

A. Any person who hires a taxi shall have the exclusive right to use the taxi. There shall be no additional charges for any of the person's companions or personal belongings.
B. No owner or driver shall carry or solicit, or permit to be carried or solicited, any additional passengers unless the person first hiring the taxicab consents to the acceptance of such additional passenger.
C. No owner or driver shall carry personal passengers in the taxicab when operating as a vehicle for hire, including minors under the care of the driver. (Ord. 5360, 2005.)

5.29.120 Color Scheme and Insignia.

A. Every vehicle covered by an owner's permit shall have a distinctive color scheme or combination of colors and/or insignia as depicted in its application and approved by the Chief of Police.
B. No vehicle shall be operated until said vehicle is painted the approved color scheme or combination of colors and insignia.
C. Changes in color scheme or insignia shall have the prior approval of the Chief of Police.
D. Every vehicle regulated by this Chapter and operating in the City shall have the company name and company telephone number plainly painted in letters at least three (3) inches in height on each side of the vehicle in a color different and easily distinguishable from the vehicle. There shall also be painted on the vehicle's front and rear exterior the number of the license assigned to said vehicle as provided in Section 5.29.170. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.125 Commercial Signs and Advertisements.

In addition to the identification required by Section 5.29.170, the following signs or advertisements may be affixed onto vehicles:
A. Advertising signs conforming to the rules and regulations of the City Sign Code which shall not in any way obstruct the view of the vehicle's insignia and identification number.
B. A sign device which shall identify, at any given time, whether the vehicle is off-duty or for hire or vacant and the type of transportation service being rendered or proposed to be rendered.
C. No advertising shall be allowed on the roof top of any vehicle licensed under this Chapter, nor shall any advertising be illuminated except as permitted hereunder. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.130 Taxi Stands.

A. This Section shall not apply to airport taxi stands.
B. The City may designate areas on public streets to be used as taxi stands pursuant to Chapter 10.48.
C. All taxi stands are to be available for the use of all licensed taxis operating, with the exception of limousine taxis, within the City on a first come, first served basis. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.135 Permit Required to Operate any Paratransit Service at Airport Terminal.

A. No person shall operate a paratransit service vehicle that is carrying passengers from the Airport Terminal unless a permit authorizing same has been issued by the Airport Director pursuant to Title 18 of this Code.
B. Except for discharging passengers, no person shall park or stand, at the Airport Terminal, a vehicle used for the purpose of carrying passengers for hire unless a permit authorizing same has been issued by the Airport Director.
C. No person shall, at the Airport Terminal, solicit or invite any person to ride in a vehicle used for the purpose of carrying passengers for hire, either by driving slowly past a loading entrance of the terminal building or by any other act or utterance calculated to induce that person to engage the vehicle unless said vehicle operator is the holder of a permit authorizing same by the Airport Director. (Ord. 4206, 1983.)

5.29.140 Vehicle Maintenance.

A. Every vehicle shall be so constructed and maintained as to promote and protect public safety. Every vehicle shall be structurally sound as to all its parts and shall be painted to give reasonable protection to all painted surfaces from structural deterioration. All marks of identification on vehicles shall be permanent and clearly legible at all times.

B. Every vehicle shall be kept in clean, sanitary condition and shall be cleaned at least once every day when operated. The interior of the vehicle shall be cleaned thoroughly with suitable antiseptic solution whenever necessary. It shall be the driver's responsibility to clean the interior and all windows of the vehicles as required while it is in use.

C. Every vehicle licensed hereunder shall at all times be maintained with the following equipment in good operating condition:

1. A frame or holder for the proper display of the public vehicle driver's permit shall face the passengers and shall be located at all times in plain view and readily visible to passengers.

2. Special equipment approved by the Chief of Police which will signal the need for law enforcement assistance. Each paratransit service owner permit holder shall instruct drivers in the purpose and methods of use of the signal equipment.

3. A sign provided by the Chief of Police made of heavy material and not smaller than twenty-four (24) square inches securely attached and clearly visible to the passenger area at all times, providing in letters as large as the size of the sign will reasonably allow, all of the following information: the name, address and telephone number of the Chief of Police regulating the operation of the vehicle, who may be notified in the event of a citizen complaint alleging violation of this Code, including matters pertaining to overcharges, unsafe vehicle operation, unsanitary vehicle condition, or vehicle defects which present a real and immediate risk to public safety.

4. In addition to the above required equipment, all taxis shall be also equipped with the following:

a. A taximeter.

b. A working light within the passenger compartment.

c. A fire extinguisher securely mounted and readily available to the driver as approved by the Fire Chief.

D. All taxis shall be inspected every four (4) months by an independent garage. The taxi inspection form shall require that the independent garage is not affiliated or associated with the taxi owner or driver. Once the inspection is completed, the signed taxi inspection form shall be submitted to the Chief of Police no later than fifteen (15) days from the date of the inspection.

E. The Chief of Police shall have the right at any time, after displaying proper identification, to inspect any permitted vehicle for the purpose of ascertaining whether or not any of the provisions of this Chapter are being violated. The Chief of Police has authority to designate specific equipment requirements and to require additional inspections of paratransit vehicles.

F. Any vehicle which is found, after any inspection, to be unsafe or unsanitary may be immediately ordered out of service, and before again being placed in service shall be put in condition as prescribed by this chapter. Prior to the return of any such vehicle to service, the owner's permit holder shall notify the Chief of Police in writing or by telephone that the withdrawn vehicle cited is in compliance and returned to service.

G. No taxi shall be equipped with any shades or curtains which can be manipulated in such a way as to shield the occupants or the driver from observation or obstruct the rear-view mirror.

H. The center partition, if any, between the driver's compartment and the passenger compartment shall be designed and constructed of shatterproof glass or plastic. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.150 Evidence of Mechanical Condition.

A. Upon receipt of a citizen's complaint regarding the mechanical condition of a taxi, the Chief of Police may require the owner to furnish evidence regarding the mechanical condition of any taxi specifically identified in the citizen's complaint. The Chief of Police may require that said evidence be furnished in order to determine whether said taxi is in safe operating condition, and/or whether said taxi(s) has or have all equipment and identification required by this Code. The Chief of Police may require said evidence to be furnished by either or both of the following:

1. A visual inspection of the taxi by a member of the Police Department; or

2. A sworn statement by the proprietor of an independent garage, which statement indicates whether said taxi is in safe operating condition and in compliance with this Code.

B. Upon determination by the Chief of Police that any vehicle allowed to be operated under an owner's permit is not in safe operating condition, and upon order that such vehicle not be used in taxi service until safely repaired, the owner and driver of such taxi shall no longer operate it until it has been repaired. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.160 Report of Accidents.

Each holder of an owner's permit and the driver of a taxi involved in any accident while operating a taxi, resulting in property damage or personal injury of any kind, shall within forty-eight (48) hours thereof give written report thereof to the Chief of Police. A copy of a report required under state law shall be deemed sufficient for such purposes; otherwise, such report shall contain all information required with respect to reports otherwise required under state law as to amounts involved. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.170 Vehicle Permit and Identification Number.

A. For each vehicle covered by an owner's permit, a vehicle permit with an identification number shall be assigned by the Chief of Police.

B. The vehicle identification number shall be displayed on the vehicle's front and rear exterior, plainly printed in letters of at least three (3) inches in height, and visible to each passenger. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.175 Applicability of Government Code Section 53075.5.

The provisions of Section 53075.5 of the California Government Code, as now or hereafter amended, shall apply to the issuance, denial, surrender, suspension, and revocation of a public vehicle driver's permit pursuant to this Chapter. (Ord. 4974, 1996.)

5.29.180 Public Vehicle Driver's Permit.

A. It shall be unlawful for any person to drive a vehicle regulated pursuant to this Chapter unless such person obtains a City public vehicle driver's permit in addition to those motor vehicle driver's licenses required by the State of California.

B. Application for such a permit shall be made in person to the Chief of Police.

C. The applicant shall provide requested information under oath or affirmation on forms supplied by the Chief of Police.

D. When an application has been denied, the applicant may not reapply for a public vehicle driver's permit for one (1) calendar year from the date of denial, unless denial was without prejudice.

E. The Chief of Police shall investigate the facts stated in an application for a public vehicle driver's permit and other relevant data. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.185 Public Vehicle Driver's Permit Application.

An applicant for a public vehicle driver’s permit shall appear in person and file with the Chief of Police a sworn application for such a permit stating, including or affixing the following:

A. The full name and address of the driver applicant.

B. The residence addresses of the driver applicant for the preceding five (5) years.

C. The names and business addresses of the driver applicant’s employers during the preceding five (5) years.

D. A statement as to whether any license, permit or certificate issued to the applicant has been denied, revoked or suspended by any public authority. The circumstances of said denial, revocation, or suspension shall also be fully explained.

E. A statement as to whether or not the driver applicant has been convicted of any crime, whether a felony or misdemeanor, or violation of any municipal ordinance (other than minor traffic and parking offenses), and if so, the nature of the offense and the punishment or penalty assessed for the conviction.

F. The name and business number of the taxi company by whom the applicant will be employed or engaged under contract as a taxi driver.

G. The endorsement by the owner employing the applicant as a taxi driver that the applicant has acquired proficient knowledge of the traffic laws of the State of California and the City, and of the streets of the City, and to safely operate a taxi in the City.

H. Proof of Compliance with Federal and State controlled substance and alcohol testing requirements, including proof that the driver has tested negative for controlled substances and for alcohol.

I. Proof of current City Business License Tax Certificate.

J. A signed statement from the hiring taxi company that they have thoroughly reviewed and discussed the City of Santa Barbara Paratransit Ordinance and any associated rules and regulations with the driver.

K. Such additional information as may be required by the Chief of Police. (Ord. 5360, 2005.)

5.29.190 Denial.

A public vehicle driver's permit shall not be issued to any person for whom any of the following is applicable:

A. Has been a licensed driver for less than 6 months in the United States.

B. Does not possess a valid Class C driver's license issued by the State of California.

C. Is less than twenty-one (21) years of age, unless the applicant possesses a valid Class B driver's license issued by the State of California and is 18 years or older.

D. Is currently required to register pursuant to Section 290 of the California Penal Code or is required to register in another state or country as a sex offender in a manner comparable to Penal Code Section 290.

E. Has been convicted of a crime involving moral turpitude, narcotics or dangerous drugs, unless a period of not less than three (3) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.

F. Has been convicted for driving a vehicle recklessly within the two (2) years immediately preceding application for a permit or renewal.

G. Has been convicted of operating a vehicle while under the influence of alcohol or drugs two (2) or more times within seven (7) years immediately preceding the application for a permit or a renewal application, or one (1) time within one (1) year immediately preceding application for a permit or renewal.

H. Has a history of chronic alcohol-related criminal convictions, as evidenced by three (3) or more public intoxication convictions within two (2) years immediately preceding an application for or renewal of permit.

I. Has two (2) or more moving violation convictions within one (1) year immediately preceding an application for a permit, or three (3) moving violation convictions within one (1) year, or four (4) moving violation convictions within two (2) years for renewal. ”Moving violation” conviction shall mean those violations set forth in State Vehicle Code Section 12810.

J. Has been convicted of a felony or misdemeanor hit and run.

K. Has falsified or omitted material and relevant facts on the public vehicle driver’s permit application.

L. Has failed to comply with all applicable provisions of Section 5.29.175 of this Chapter. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4277, 1984; Ord. 4206, 1983.)

5.29.200 Issuance of Public Vehicle Driver's Permit.

A. If the Chief of Police finds that the driver applicant is duly qualified, the Chief of Police shall promptly and expeditiously issue a public vehicle driver's permit to the applicant.

B. A permit card shall contain a recent picture of the permittee, affixed in such a manner that another picture cannot be substituted without detection. The driver's permit shall also contain the driver's full name, permit number, and the expiration date of such permit. The Chief of Police shall furnish a driver's permit which shall at all times be conspicuously displayed in a suitable container in the vehicle the driver is operating. It shall be unlawful to operate a vehicle licensed under this Chapter without the driver's public vehicle driver's permit being conspicuously displayed in said vehicle.

C. Unless voided by operation of Section 5.29.175 of this Chapter, or surrendered, suspended or revoked, driver's permits shall be valid for one (1) year from the date of issuance. Driver's permits may be renewed for a two (2) year period provided:

1. That the Chief of Police's investigation of the driver's traffic and criminal record reveals no criminal or traffic violation during the period the permit was valid, and

2. The previous permit has not expired or become void by operation of Section 5.29.175 of this Chapter.

If the investigation reveals a violation under subsection 1. above, the permit may be renewed for one (1) year only. If it reveals a violation under subsection 2. above, a new application will be required.

D. The permit is the property of the City and is not transferable to any other driver. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4206, 1983.)

5.29.210 Change of Address or Employer.

Upon change of name, address, telephone number or employer, a driver shall notify the owner's permit holder and the Chief of Police in writing within five (5) days. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.215 Leave of Absence.

A driver and the company owner shall notify the Chief of Police in writing no less than five (5) days before a driver begins any leave of absence from employment with an owner lasting for a period of more than thirty (30) days. If during a driver’s leave of absence the driver’s permit expires, renewal fees shall be paid prior to the leave of absence or prior to the expiration date of the driver’s permit. Any driver whose leave of absence is for a period of one (1) year or longer shall be required to reapply as a new driver. (Ord. 5360, 2005.)

5.29.220 Surrender, Suspension, Revocation of Public Vehicle Driver's Permit.

A. The Chief of Police may suspend or revoke the public vehicle driver's permit of any person licensed under this Chapter for a period not to exceed thirty (30) days for any of the following:

1. Repeated and persistent violations of the traffic and parking laws of the City or the state Vehicle Code.
2. Conviction for misdemeanor or felony reckless driving.
3. Driving any vehicle known to the driver not to be in good order and repair.
4. Violation of Section 5.29.100 in any twelve (12) month period.
5. Falsifying or omitting material and relevant facts on an application for a public vehicle driver's permit.
6. Conviction or plea of nolo contendere to the violation of any law involving alcohol.
7. Conviction or plea of nolo contendere to the violation of any law involving moral turpitude.
8. Operating any vehicle in a manner which constitutes a misdemeanor under the laws of the State of California.
9. Conviction of a misdemeanor or felony “crime of violence” defined as a crime that by its nature poses a substantial risk of the use, attempted use, or threatened use of physical force against another person or property of another. A crime of violence may include, but is not limited to, the following crimes: domestic abuse, murder, manslaughter, criminal vehicular homicide and injury, assault, sexual assault, use of drugs to injure or to facilitate crime, robbery, burglary, kidnapping, false imprisonment, incest, rape, neglect or endangerment of a child, arson, terrorist threats, or stalking.

10. Repeated violations of this Chapter.

B. The Chief of Police shall immediately suspend the public vehicle driver's permit of any driver upon the receipt of information reasonably sufficient and reliable to establish that the driver:

1. has been formally accused of a violation of law involving:
   a. a felony;
   b. a sex offense;
   c. a prostitution solicitation offense;
   d. a narcotics offense;
   e. a crime of violence as defined by this Section;
   f. a reckless driving offense;
   g. a hit and run offense;
   h. a driving under the influence of alcohol or drugs offense;
   i. a public intoxication offense; or
2. has had a license to drive issued by the State of California suspended by the State.

C. Such a suspension shall remain in effect until there has been a final judgment of conviction by a court of competent jurisdiction; the entry of a plea agreement entering a plea of guilty or no-contest shall constitute a conviction.

D. The Chief of Police shall immediately revoke the public vehicle driver's permit of any driver if that permit has become void by operation of Section 5.29.175 of this Chapter, or if that driver:

1. has been found guilty by final judgment of a court of competent jurisdiction, as defined by this Section, of a violation of the law involving:
   a. a felony;
   b. a sex offense;
   c. a prostitution solicitation offense;
   d. a narcotics offense;
   e. a crime of violence offense as defined by this Section; or
   f. a hit and run offense; or
2. has had a license to drive issued by the State of California revoked by the State.

E. If the required insurance policy is cancelled for either the owner or the driver of a taxi, both the owner and the driver shall be suspended for no less than three (3) days for the first violation in a one (1) year period, fifteen (15) days for the second violation in a one (1) year period, and revoked for the third violation in a one (1) year period.

F. A driver may appeal a suspension or revocation under this Section to the Board of Fire and Police Commissioners if the notice of appeal is filed with the Chief of Police within the (10) days after written notice of suspension is provided to the driver. The Board of Fire and Police Commissioners shall hear an appeal after a notice of appeal is filed with the Police Chief, as required by this Subsection, at the next regular meeting of the Board of Fire and Police Commissioners.

G. A suspension shall remain in effect until a duly filed appeal is heard by the Board of Fire and Police Commissioners. The Board of Fire and Police Commissioners shall suspend a driver's permit for as long as a license to drive and vehicle issued by the State of California is suspended or revoked by the State. In the case of suspension for any other reason under this Section, the Board of Fire and Police Commissioners shall consider the propriety of the suspension and may either rescind or continue the suspension as may be required to protect public safety, peace and welfare.

H. Any decision, except under 5.29.220.C, shall be effective immediately upon service of written notice of the decision and reasons therefore. A driver whose permit has been suspended or revoked by the Chief of Police shall be notified in writing within five (5) days by certified mail directed to the last known address on record with the City. Such written notice shall state the reasons for the suspension or revocation. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4206, 1983.)

5.29.230 Fees.

In addition to City business taxes as provided by Chapter 5.04 of this Code, non-refundable fees shall be paid when any application is made under the provisions of this Chapter. For each application required pursuant to this Chapter, application fees will be set forth in a resolution of the City Council. (Ord. 4206, 1983.)

5.29.240 Records Required.

A. Every driver shall maintain a daily manifest which records:

1. The time the vehicle went on and off duty.
2. The vehicle identification number and driver's full name.
3. All trips made each day showing time and place of origin and destination of each trip, and the number of passengers transported during each trip.
4. The amount of fare charged for each trip.

B. All such completed manifests shall be returned to the owner permit holder by the driver at the conclusion of the driver's work period. If the driver changes vehicles during any work period, such driver shall maintain a separate manifest for that portion of the work period in which another vehicle is used. The forms for such records shall be furnished to the driver by the owner and shall be subject to the approval of the Chief of Police. It shall be unlawful to maintain an incomplete manifest.

C. Every owner's permit holder shall retain and preserve all driver manifests in a safe place for at least one hundred eighty (180) days and the same shall be made available upon demand for inspection by the Chief of Police.

D. Any article found in a vehicle shall be returned to the passenger owning it, if the passenger's identity is known to the driver; otherwise, it shall be reported on the daily manifest and, within 24 hours of the loss it shall be deposited at the Santa Barbara Police Department. Any articles taken in lieu of fare shall also be reported on the manifest and deposited with the company owner.

E. The Chief of Police shall require that each owner shall report the terms of all agreements between owners and between owner and drivers and other parties which provide for payment for any or all of the following: for use of vehicle(s), rental payment for use of colors, rental payment for use of radio equipment, payment for dispatching service, obligation of drivers to perform unpaid services for owner's permit holders or owner. The Chief of Police shall be promptly informed of the terms of such agreements. All changes in the agreements shall be reported within thirty (30) days of their approval by the parties.

F. At all reasonable times, an owner's permit holder shall permit the Chief of Police to examine all business property of said owner's permit holder relating to the paratransit service for which such person was licensed, whether such property be situated within or without the City.

G. Records shall be made of each order for service taken by telephone and shall include:

1. Location of requested pickup.
2. Identification of order taker.
3. Date and time of order.
4. Identification of dispatcher.
5. Identification of vehicle dispatched.
6. Time of dispatch.

Such records shall be kept for at least ninety (90) days. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.250 Appeal Procedure.

A. **Appeals to the Board of Fire and Police Commissioners**

1. Any decision of the Chief of Police denying a permit, or denying an amendment to a permit, or imposing a suspension or revocation of any owner's or driver's permit shall not become final until fifteen (15) days after the date of transmittal of the written notice to the person affected by such decision, during which period the party to the action may appeal the decision in the manner provided herein at any time prior to the expiration date of the fifteen (15) day period. If no appeal is taken before the expiration of the fifteen (15) day period, the decision of the Chief of Police shall be final.

2. The appeal of any decision shall be in writing signed by the party to the action briefly setting forth the reasons why such decision is not proper, stating an address at which the appellant will receive notices, and filed with the Clerk of the City.

3. Upon filing an appeal, the party to the action shall be entitled to a hearing by the Board of Fire and Police Commissioners at the next regular meeting.

4. The appellant or appellant's representative shall have the right to present his or her case in person.

5. The Board of Fire and Police Commissioners shall consider the case record as well as any statements offered by interested parties. The hearing will be conducted according to administrative rules relating to evidence and witnesses as adopted by the Commission.

6. If the Board of Fire and Police Commissioners refuses to issue, amend or restore a license or an owner's permit, the party to the action or such party's agent shall not file a new application within three hundred sixty five (365) days from the date of final action by the Board of Fire and Police Commissioners.

7. If the Board of Fire and Police Commissioners suspends an owner's permit or a license, the Chief of Police shall determine a period of suspension of not more than thirty (30) days, which is in accordance with the schedule of penalties developed by the Chief of Police.

8. If the Board of Fire and Police Commissioners' action is to grant or restore a certificate or a license, the Commission shall direct the Chief of Police to issue or restore the certificate or license.

B. **Appeals to the City Council**

1. Appeals to the City Council from the decision of the Board of Fire and Police Commissioners shall be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5360, 2005; Ord. 5136, 1999; Ord. 4206, 1983.)

5.29.260 Leasing or Renting.

A. Any owner's permit holder may lease or rent any vehicles licensed to operate as taxis under the provisions of this Chapter to holders of driver's permits, provided that any and all lease or rental agreements shall be made on lease or rent forms approved by the Chief of Police. Copies of such forms shall be provided to all lessees.

B. Lease of vehicles under this section shall in no way relieve any owner's permit holder and lessee from responsibility of full compliance with all the provisions of this chapter.

C. All chapter provisions applicable to an owner's permit holder shall also apply to a lessor, and any violations of such provisions by lessor shall be considered a violation by the owner's permit holder and shall carry the penalty prescribed.

D. All chapter provisions applicable to a taxi driver shall also apply to a lessee, and any violations of such provisions by a lessee shall carry the prescribed penalty.

E. Owner's permit holders entering into lease arrangements shall notify in writing the Chief of Police and provide the following information:

1. The number of taxis operating under lease agreements.
2. The vehicle identification numbers.
3. The full name and address of the lessee.
4. A photocopy of the lease or rental agreement as signed by both lessor and lessee.
5. Any other pertinent information.

F. It shall be unlawful to lease or rent a vehicle to any person other than a holder of a valid driver's permit issued under this Chapter.

G. It shall be unlawful for a lessee to fail to maintain an accurate daily manifest as prescribed by Section 5.29.240 of this Chapter. The lessee shall deliver such records to the lessor who shall be responsible for their retention as specified in Section 5.29.240 of this Chapter.

H. The cost of maintenance of the vehicle, repair, or towing costs covered under a lease or rental agreement shall be the responsibility of the lessor.

I. An owner's permit holder who leases or rents taxis shall have such taxis painted with the identifying color scheme and/or insignia, and such taxis shall be fully insured as provided by Section 5.29.310.

J. Any violation of this section either by lessor or lessee shall be cause for suspension or revocation of the lessor's permit and the lessee's permit. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.270 Driver-Owners.

A. An owner's permit holder may contract for the operation of a vehicle owned by the driver-owner under the provisions of this chapter, provided that any and all contract agreements shall be made on forms approved by the Chief of Police.

B. Operation of vehicles under this section shall in no way relieve any owner's permit holder and driver-owner from responsibility of full compliance with all the provisions of this Chapter.

C. All provisions of this Chapter applicable to owner's permit holders shall also apply to a driver-owner, and any violations of such provisions by such contractor shall be considered a violation by the owner's permit holder and shall carry the penalty prescribed.

D. All provisions of this Chapter applicable to a taxi driver shall also apply to a driver-owner, and any violation of such provisions by a driver-owner shall carry the prescribed penalty.

E. Owner's permit holders entering into contract agreements with driver-owners shall notify in writing the Chief of Police and provide the following information:

1. The number of taxis operating under contract agreements.
2. The vehicle identification number(s).
3. The full name and home address of the owner.
4. A photocopy of the contract agreement as signed by the owner's permit holder and driver-owner.
5. Any other pertinent information.

F. It shall be unlawful to contract with a driver-owner for the operation of a vehicle unless such driver-owner is a licensed driver as provided under this Chapter.

G. It shall be unlawful for a driver-owner to fail to maintain an accurate daily manifest as prescribed by Section 5.29.240 of this Chapter. The driver-owner shall deliver such records to the owner's permit holder who shall be responsible for their retention as specified in Section 5.29.240 of this Chapter.

H. It is the responsibility of the owner's permit holder to insure that the vehicle is maintained by the driver-owner as prescribed by Section 5.29.140.

I. An owner's permit holder who contracts with a driver-owner for the operation of taxis shall insure that such taxis are painted with the approved identifying color scheme and/or insignia, and such taxis shall be fully insured as provided by Section 5.29.310 of this Chapter.

J. Any violation of this section either by an owner's permit holder or driver-owner shall be cause for suspension or revocation of the owner's permit holder's permit. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.290 Required Indemnification.

An owner's permit holder shall, and by acceptance of the permit does, agree in writing to indemnify and hold the City of Santa Barbara, its officers, employees and agents harmless from any and all damages, claims, liabilities, costs, suits, or other expense resulting from and arising out of said permit holder's operations. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.300 Operation of Paratransit Service Vehicles.

Any vehicle licensed by the City as a paratransit vehicle shall be operated according to the provisions of this Section.

A. Each driver shall carry in the vehicle a current map of the City. Upon request, the driver shall make the map available to the passenger.

B. A driver shall not deceive any passenger who rides in the vehicle, or who expresses a desire to ride in such vehicle, as to that passenger's destination or the rate to be charged.

C. Every vehicle while in operation for the solicitation or transportation of passengers shall be attended by the driver at all times except when such driver is actually engaged in loading or unloading the vehicle, or in answering telephones in connection with the business.

D. A driver shall not leave the public vehicle driver's permit in an unattended or unsecured vehicle.

E. No owner or driver of a vehicle shall knowingly permit such vehicle to be used for unlawful purposes or knowingly to transport persons therein to places for such purposes.

F. It shall be the duty of the driver to give any passenger so requesting a receipt in writing signed by the driver.

G. Drivers shall not stop to load or unload passengers or their belongings in the intersection of any street or any marked crosswalks. No vehicle shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

H. A driver shall assist a passenger in and out of a vehicle when requested; however, a driver is not required to lift a passenger.

I. No driver of any vehicle shall operate a vehicle, nor shall owner's permit holders or their agents require drivers to operate, more than ten (10) hours in any consecutive twenty-four (24) hour period.

J. No driver of any vehicle shall transport any more persons, including the driver, than the manufacturer's designated seating capacity for the vehicle.

K. A taxi may be operated in any other mode of demand responsive transportation service, and when so operating shall comply with all provisions of this Chapter regulating such other forms of service.

L. When providing taxi service, the driver shall transport a passenger to the designated destination by the shortest, most direct, accessible and reasonable route unless otherwise directed by the passenger, in which case the directions of the passenger shall be followed. Further, a driver shall not transport any passenger or cause such passenger to be transported to a place other than as directed by such passenger.

M. All drivers shall comply with all reasonable and lawful requests of a passenger as to the speed of travel and the route to be taken.

N. Cruising is permitted, but only when such movements do not usually obstruct the normal flow of traffic. If it is determined by the Chief of Police upon review of actual traffic data that cruising significantly obstructs the normal flow of traffic at certain locations or times, the City Administrator may, by administrative order, prohibit cruising at such locations or times.

O. Every vehicle shall be operated in accordance with the laws of this State, the provisions of this Chapter and other ordinances and laws of the City, with due regard to the safety, comfort and convenience of passengers and the general public.

P. The Chief of Police is empowered to make regulations necessary to make effective the provisions of this Chapter, and to cover emergencies or special conditions. In the event that after ninety (90) days the experimental regulations have proved satisfactory, they may be placed into effect permanently by authorization of the Board of Fire and Police Commissioners.

Q. It shall be unlawful for any driver of any vehicle to refuse service to a prospective passenger or to take any action to actively discourage any person unless:

1. It shall be readily apparent that the person presents a hazard to the driver.
2. The person is unable to pay the lawful fare upon request.

R. It shall be unlawful for any driver of any paratransit service vehicle licensed by the City to use any tobacco product while passengers are in the vehicle as set forth in Chapter 9.20 of this Code. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.310 Insurance Requirements.

A. It shall be a condition precedent to the issuance of an owner's permit that a completed certificate of insurance, on a form provided by the City, be filed with the City Clerk. All insurance policies must be renewed by 3 p.m. of the last business day prior to the expiration date of the current insurance policy. Said certificate shall provide evidence of insurance in amounts and with conditions acceptable to the City. The owner's insurance shall remain in full force, at a level at least equal to the minimum requirements of the City, or the owner's permit shall be subject to revocation or suspension pursuant to this Chapter.

B. Insurance policies that are not renewed, or that are not in place by 3 p.m. of the last business day prior to the expiration date of the current policy, will result in all vehicles under the owner’s permit being suspended for a period of no less than three (3) days as set forth in Section 5.29.220 of this Chapter.

C. If insurance policies are cancelled for either the owner or driver for lack of payment, then both driver and owner’s permits will be suspended for three (3) days for the first violation in a one (1) year period; and for fifteen (15) days for the second violation in a one (1) year period; and revoked for one (1) year for the third violation in a one (1) year period. (Ord. 5360, 2005; Ord. 4206, 1983; supersedes Chapter 5.28.)

Chapter 5.30

TOWING OF VEHICLES

Sections:

5.30.010 Definitions.
5.30.020 Permits and Exemptions.
5.30.030 Requirements and Duties.
5.30.040 Signs and Notices, Rates and Charges.
5.30.050 Release of Vehicles, Payment, Notice, Protest.
5.30.060 Itemized Statement.
5.30.070 Prohibitions.
5.30.080 Applications and Issuance.
5.30.090 Appeal.
5.30.100 Grounds for Suspension or Revocation.
5.30.110 Notice and Hearing for Suspension or Revocation.
5.30.120 Rules and Regulations.
5.30.130 Insurance.
5.30.140 Hold Harmless and Indemnification.

5.30.010 Definitions.

For the purpose of this chapter, certain words are defined:

(a) "Applicant" means a person who applies for a towing permit pursuant to this chapter.

(b) "Board" means the Board of Fire and Police Commissioners of the City of Santa Barbara.

(c) "Emergency towing" means the towing of a vehicle when requested by an officer of any law enforcement agency acting under authority of law or any City official or employee acting in his official capacity.

(d) "Non-emergency towing" means the towing of a vehicle (1) that has been involved in a collision, but has been removed from the scene; (2) that has experienced mechanical failure, but is not on the road-way or has been removed from the roadway and no longer constitutes a hazard; or (3) that, being mechanically operative, is towed for convenience.

(e) "Involuntary towing" means towing of a vehicle pursuant to the provisions of California Vehicle Code §22650 et seq. when requested by someone other than the legal owner, registered owner, driver or other person in control of a vehicle.

(f) "Permittee" means any person issued a towing permit pursuant to this chapter.

(g) "Service" means formal delivery of a document and shall be deemed to be completed when a document has been (1) personally delivered, or (2) has been enclosed in a sealed envelope addressed to the applicant or permittee with postage thereon fully prepaid and said envelope has been deposited in a United States mailbox.

(h) "Towing Operation" means the activity of towing vehicles for compensation within the City. Towing operations shall include the storing of vehicles and all other services performed incident to towing. (Ord. 3970, 1978.)

5.30.020 Permits and Exemptions.

(a) Permit Required, Term and Fee. No person shall engage in, manage, conduct or operate a towing operation business without a towing permit which shall be obtained from the offices of the Tax and Permit Inspector. The period for issuance of a towing permit shall be three (3) years and the fee for such permit shall be established by resolution of the City Council.

(b) Exemptions. The provisions of this chapter shall not apply to any towing operation that provides tow service:

(1) Exclusively to members of an association, automobile club, or similar organization and receives remuneration only from the sponsoring association, automobile club or similar organization;

(2) Without charge or fee for other vehicles owned or operated by the individual or organization furnishing the tow services;

(3) For other vehicles owned or operated by the individual or organization furnishing the tow service, but which are being operated under terms of a rent or lease agreement or contract, and such towing is performed on a non-profit basis or said fee is a part of the rent or lease agreement or contract; and

(c) Imposition of Conditions-Towing Operation Permit. In granting any permit under this chapter, the Board may impose such reasonable conditions relative to the activities of towing operations as it may be necessary for the protection of the public peace, safety, health or welfare and such conditions shall be consistent with the provisions of this chapter. (Ord. 4010 §1, 1979; Ord. 3970, 1978.)

5.30.030 Requirements and Duties.

(a) Provisions supplemental to business license regulations. The provisions of this chapter are intended to augment and be in addition to the provisions of Title 5 providing for a business license tax. Whenever the provisions of this chapter impose a greater restriction upon persons, premises or practices than is imposed by the general business license regulations, the provisions of this chapter shall control.

(b) Business location. Any person conducting a towing operation business shall maintain a physical location from which said business is directed. Such physical location shall provide an office with an adequate yard for vehicle storage and the location of the yard shall be subject to the approval of the Board.

(c) Change of location. A change of location shall be endorsed on a towing permit upon a written application by the permittee, subject to the approval of the Tax and Permit Inspector. The permittee shall notify the Tax and Permit Inspector of any change of location within five (5) days after a move. (Ord. 3970, 1978.)

5.30.040 Signs and Notices, Rates and Charges.

(a) Signs and Notices. Each permittee shall maintain a sign listing the rates and charges of all services offered. Such sign shall be conspicuously placed in the office or other place where customer financial transactions take place. The letters on such signs shall be a minimum of one inch high with one quarter inch stroke. The letters shall be a contrasting color from the background.

(b) Filing of rates and charges. Applicants for towing operation permits shall file a schedule of maximum rates and charges for each service offered with their application. No charge more than the rates and charges specified in such schedule shall be made except as herein provided.

Changes in maximum rates and charges shall be made by written notice containing the new schedule of rates and charges to the Board at least ten days prior to becoming effective. A duplicate copy of such notice shall be posted for a period of ten days in the office next to the posted schedule of the existing rates and charges. Upon the expiration of the ten-day period, the maximum rate and charge schedule shall be changed in accordance with such notice, except that the rates and charges for emergency and involuntary towing shall only become effective as set forth in subsection (c) of this section.

(c) Emergency and involuntary requested maximum towing rates. Maximum rates and charges for any emergency or involuntary towing assignment shall be subject to the prior approval of the Board. The approval of said rates and charges shall become effective thirty (30) days after the action of the Board is final unless an appeal is perfected pursuant to §5.30.090. (Ord. 4010 §1, 1979; Ord. 3970, 1978.)

5.30.050 Release of Vehicles, Payment, Notice, Protest.

Each permittee shall provide for release of vehicles during the hours established by the Board. The Board shall establish hours for the release of vehicles pursuant to §5.30.120. A permittee may additionally release vehicles on other days and hours. Each permittee shall accept as payment valid Visa and Master Charge credit cards and payment by check accompanied by a valid bank check guarantee card which will guarantee such payment.

If a vehicle is removed by a permittee, the owner or person entitled to possession thereof shall be given notice of the options available to recover the vehicle and protest the charges. If the recovery of the vehicle and protest of the charges are not covered by §10.44.025 of this Code, the procedure for recovery and protest is as follows:

(1) Pay the charges for towing and storage and protest such charges by filing an appeal to the Board, within five (5) days after the release of the vehicle.

(2) Post security for the towing and storage charges which is satisfactory to the permittee and protest such charges by filing an appeal to the Board within five (5) days after the release of the vehicle. The Board shall adopt rules for the protest appeal and its decision shall be binding upon the permittee. Nothing in this section shall prohibit the Board from adopting further rules and regulations concerning the release of vehicles. (Ord. 4010 §3, 1979; Ord. 3970, 1978.)

5.30.060 Itemized Statement.

When requested, each permittee shall furnish an itemized statement to the person who authorized the towing service, or his agent. Such permittee also shall furnish an itemized statement of services per-formed, labor and special equipment used in completing tow of vehicle and of the charges made therefore upon the request of:

(1) the registered owner; or

(2) the legal owner; or

(3) the insurance carrier of either the registered owner or the legal owner; or

(4) the duly authorized agent of the registered owner, the legal owner, or the insurance carrier. Such permittee shall furnish a copy of the statement to any person authorized to receive the statement without demanding payment as a condition precedent. (Ord. 3970, 1978.)

5.30.070 Prohibitions.

(a) Towing authorization. A permittee shall not attach a vehicle to a tow unit on a non-emergency towing assignment without first receiving authorization to do so by the registered owner, legal owner, driver, or other person in control of said vehicle.

(b) Vehicle repair or alteration, when permitted. A permittee hereunder shall refrain from making any repairs or alterations to a vehicle without first being authorized by one of the persons listed in Section 5.30.060. Parts or accessories shall not be removed from vehicle without authorization except as necessary for security purposes. Under such circumstances the parts or accessories removed shall be listed on the itemized statement and stored in the business office. This section shall not be construed to prohibit permit-tees from making emergency alterations necessary to permit the removal by towing of such vehicle.

(c) General. The general prohibitions common to all businesses as specified in Title 5 shall be applicable. (Ord. 4010 §4, 1979; Ord. 3970, 1978.)

5.30.080 Applications and Issuance.

(a) Issuing Authority. The issuing authority shall be Tax and Permit Inspector and the application for a permit shall be filed with the Tax and Permit Inspector. No permits shall be issued without the approval of the approving authority.

(b) Approving Authority. The approving authority shall be the Board, unless an appeal is filed. If the application for a towing permit is approved, the Board shall promptly notify the Tax and Permit Inspector who shall then issue the towing permit.

(c) Applications, Approval. The Police Chief is granted authority to approve the application form for a towing permit and request the information that he deems necessary to satisfy the objectives of this chapter. Upon the filing of an application, the Board shall cause an investigation to be made, and shall approve a towing permit if it finds that the conduct or operation of a towing operation would not be detrimental or injurious to the public welfare, and that the applicant is of good character and of good business repute, and has not been convicted of theft or embezzlement, or of any offense involving the unlawful use, taking or conversion of a vehicle belonging to another, and is otherwise a fit and proper person to conduct a towing operation, or if the applicant is a corporation, its officers, directors and principal stockholders are of good character and of good business repute, and have not been convicted of theft or embezzlement, or of any offense involving the unlawful use, taking or conversion of a vehicle belonging to another, and are otherwise fit and proper persons to conduct such business, otherwise, the application shall be denied only after the Board shall conduct a hearing on said application. (Ord. 3970, 1978.)

5.30.090 Appeal.

Any action taken by the Board pursuant to this chapter is appealable to the City Council. The action of the Board shall be final when any action is taken or if notice is required to be given, at the time such notice is served. Such an appeal must be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4217, 1983; Ord. 3970, 1978.)

5.30.100 Grounds for Suspension or Revocation.

It shall be grounds for suspension or revocation if any permittee, his agent or employee or any person connected or associated with the permittee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the permittee has:

(a) Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed with the Board; or

(b) Violated any provision of this Title, regulations adopted pursuant thereto or of any statute relating to his permitted activity; or

(c) Been convicted of a felony or any crime involving theft, embezzlement or moral turpitude; or

(d) Committed any act constituting dishonesty or fraud; or

(e) A bad moral character, intemperate habits or a bad reputation for truth, honesty or integrity; or

(f) Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting a permitted business; or

(g) Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of a permitted business; or

(h) Violated any rule or regulation adopted by the Board relating to the permittee's business; or

(i) Willfully failed to comply with the terms of any contract made as a part of the exercise of the permitted business; or

(j) Conducted the permitted business in a manner contrary to the peace, health, safety, and general welfare of the public; or

(k) Demonstrated that he is unfit to be trusted with the privileges granted by such permit.

(l) The permittee, his agents or employees, obtained a tow contract by use of fraud, trick, dishonesty or forgery; or

(m) The permittee, his agents or employees, towed a vehicle to a location other than listed as the business address of such permittee without first receiving authorization to do so by the person authorizing the tow; or

(n) The permittee, his agents or employees, after towing a vehicle to the business location of permit-tee, without authorization, towed such vehicle to another location for storage; or

(o) The permittee, his agents or employees, have conspired with any person to defraud any owner of any vehicle, or any insurance company, or any other person financially interested in the cost of the towing or storage of any vehicle, by making false or deceptive statements relating to the towing or storage of any vehicle; or

(p) The permittee, his agent or employees, removed a vehicle involved in a collision prior to arrival of police, and a person, as a result of such collision, suffered death or injury; or the driver of an involved vehicle, or a party to such collision, was under the influence of an intoxicant of any nature; or there is evidence that such vehicle was involved in a hit and run collision; or

(q) The permittee, his agents or employees, have charged for services not performed, equipment not employed or used, services or equipment not needed, or have otherwise materially misstated the nature of any service performed or equipment used. (Ord. 3970, 1978.)

5.30.110 Notice and Hearing for Suspension or Revocation.

(a) Notice. Prior to suspension or revocation of any towing permit for any ground specified in Section 5.30.100, the Board or the Police Chief shall cause permittee to be given written notice of the charges and such notice must be served upon permittee at least ten (10) days prior to the hearing.

(b) Hearing. At the hearing, the Police Chief or the aggrieved party or parties, shall present the case for suspension or revocation of the towing permit and the permittee shall have the opportunity to rebut the charges. In considering the imposition of suspension or revocation, the Board shall consider the seriousness of the violation of Section 5.30.100, the surrounding circumstances, any prior violations, the past history of the permittee and any mitigating factors. After hearing the evidence, the Board has the authority to suspend or revoke the towing permit if it sustains any of the charges. The Board shall give notice of its decision in writing and said decision shall be final upon service. (Ord. 3970, 1978.)

5.30.120 Rules and Regulations.

The Board is delegated authority to make rules and regulations for the conduct of towing operations pursuant to this chapter. The Board is also given authority to approve the retention of towing operations to be used by the City and establish rules and regulations for the conduct of such operations. Said rules and regulations shall become effective thirty (30) days after approval by the Board, unless the City Council disapproves said regulations or an appeal is perfected pursuant to §5.30.090. (Ord. 3970, 1978.)

5.30.130 Insurance.

All permittees under this chapter who do towing at the request of any City employee or official acting in his official capacity shall have the liability insurance with the minimum requirements established by the City and shall name the City, its officers, employees and agents as named or additional insureds for operations conducted pursuant to this chapter. (Ord. 4010 §5, 1979.)

5.30.140 Hold Harmless and Indemnification.

As a condition of possessing a towing permit, Permittee shall agree to investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all losses, damages, liabilities, claims, demands, detriments, costs, charges, and expenses (including attorneys' fees) and causes of whatsoever character which the City may incur, sustain, or be subjected to on account of loss or damage to property and loss of use thereof or bodily injury or death to any persons arising out of Permittee's operations authorized pursuant to this chapter. (Ord. 3970, 1978.)

Chapter 5.32

PEDDLERS

Sections:

5.32.010 Peddler Defined.
5.32.020 Solicitor Defined.
5.32.030 Fixed Place of Business Defined.
5.32.035 Prohibited Types of Peddling and Soliciting.
5.32.040 Permit Required.
5.32.050 Permit Application - Contents - Investigation Fee.
5.32.060 Application - Investigation by Police Chief.
5.32.070 Disapproval of Application.
5.32.080 Approval of Application - Issuance of Permit.
5.32.090 Permit - Operative Time - Renewal.
5.32.100 Revocation of Permits.
5.32.110 Revocation of Permit - Appeal.
5.32.115 Temporary Permit.
5.32.120 Permit Exemptions.

5.32.010 Peddler Defined.

As used in this Code, the term "peddler" means any person who goes from place to place, or from house to house, for the purpose of selling or offering for sale, or leasing or offering for lease, any goods, wares, merchandise, fruits, vegetables, foodstuffs or anything whatsoever. (Ord 4565, 1989; Ord. 3023 §2(part), 1964; prior Code §26.50.)

5.32.020 Solicitor Defined.

As used in this Code, the term "solicitor" means any person who goes from place to place, or from house to house, or uses a telephone for the purpose of taking or attempting to take orders for the sale or lease of goods, wares, merchandise, fruits, vegetables or foodstuffs or any other thing whatsoever, for immediate or future delivery, or for services to be furnished or performed immediately or in the future, whether or not such person has, carries or exposes for sale a sample of the subject and whether or not he is collecting advance payments on such sales or orders. (Ord. 4565, 1989; Ord. 3023 §2(part), 1964; prior Code §26.51.)

5.32.030 Fixed Place of Business Defined.

"Fixed place of business" means the premises in the City occupied for a period of not less than sixty (60) days for the particular purpose of conducting business, separate and distinct from any other place of business, and regularly kept open with some person in exclusive attendance thereat for at least thirty (30) hours in each and every week. (Ord. 3222 §1, 1967; Ord. 3023 §2(part), 1964; prior Code §26.52.)

5.32.035 Prohibited Types of Peddling and Soliciting.

A. Except as otherwise authorized in this Code, it shall be unlawful for any peddler or solicitor to do any of the following:

1. To peddle or solicit on or in any street within the City.
2. To peddle or solicit at any residence, dwelling, flat or apartment whereon a sign bearing the words "no peddler or solicitor" or words of similar meaning, indicating peddlers or solicitors are not wanted on the premises, is painted or affixed or exposed to the public view, or to attempt to gain admittance to such premises for the purpose of peddling or soliciting, except with the prior consent or at the prior invitation of some member of the household.
3. To peddle or solicit within the City at any time from sunset to nine o'clock (9:00 a.m.), except by prior appointment.
4. To peddle or solicit at any place within any commercial or industrial district as established in the Zoning Ordinance of the City.

B. Subsection A of this Section shall not apply to persons delivering articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution.

C. Subsections A.1, A.3 and A.4 of this Section shall not apply to the following:

1. Any person who is a certified producer authorized to participate and participating in a Certified Farmers Market, as defined, authorized and permitted in accordance with the provisions of Title 3, Chapter 3, Subchapter 1, Group 4, Article 6.5 of the California Code of Regulations (hereinafter, the "Market").

2. A person selling non-certified goods at and during the Market (i) who sells only the type or types of goods currently authorized by the Council to be sold at the Market and (ii) who has been issued and has in her or his possession an original, currently valid certificate signed by the Manager of the Market and showing that she or he has been authorized by the manager of the Market to sell non-certified goods at the Market.

D. Subsections A.4 of this Section shall not apply to (1) selling or taking orders in commercial or industrial establishments for goods, wares, merchandise or services to be used in connection with the operation or maintenance of the business; or (2) selling or offering for sale newspapers, magazines and periodicals in the present customary and usual manner of selling and offering for sale of newspapers, magazines and periodicals in the City. (Ord. 4616, 1990; Ord. 4565, 1989.)

5.32.040 Permit Required.

It shall be unlawful for any peddler or solicitor to peddle or solicit within the City without a permit issued by the Tax and Permit Inspector. (Ord. 3023 §2(part), 1964; prior Code §26.53.)

5.32.050 Permit Application - Contents - Investigation Fee.

(a) Applicants for permit under this chapter must file with the Tax and Permit Inspector a sworn application in writing on a form to be furnished by the Tax and Permit Inspector, which shall give the following information:

(1) Name and description of the applicant.

(2) Permanent home address and full local address of the applicant.

(3) A brief description of the nature of the business and the goods to be sold.

(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery.

(7) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed.

(b) At the time of filing the application, a fee of ten dollars ($10.00) shall be paid to the Tax and Permit Inspector to cover the cost of investigation of the facts stated. The investigation fee shall not be refunded under any circumstances. (Ord. 3023 §29(part), 1964; prior Code §26.54.)

5.32.060 Application - Investigation by Police Chief.

Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's moral character to be made as he deems necessary for the protection of the public good. (Ord. 3023 §2(part), 1964; prior Code §26.55(a).)

5.32.070 Disapproval of Application.

If, as a result of such investigation, the applicant's character is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Tax and Permit Inspector, who shall notify the applicant that his application is disapproved and that no permit will be issued. (Ord. 3023 §2(part), 1964; prior Code §26.55(b).)

5.32.080 Approval of Application - Issuance of Permit.

If, as a result of such investigation, the character of the applicant is found to be satisfactory, the Chief of Police shall endorse on the application his approval and return it to the Tax and Permit Inspector. The Tax and Permit Inspector shall then issue a permit to the applicant if all applicable permit fees have been paid and if all other required taxes have been paid. (Ord. 3023 §2(part), 1964; prior Code §26.55(c).)

5.32.090 Permit - Operative Time - Renewal.

Permits issued pursuant to this chapter and renewals shall be operative for a length of time as the Tax and Permit Inspector shall determine; provided, that no permit or renewal shall be operative later than one (1) year after the permit was issued pursuant to Sections 5.32.060 - 5.32.080. Within one (1) year after issuance of the permit, upon the request of the holder, the Tax and Permit Inspector shall renew the permit unless he or the Chief of Police determine facts exist which would constitute grounds for denial of the permit under Sections 5.32.060 - 5.32.080, and provided all applicable permit fees have been paid and all other required taxes have been paid. (Ord. 3023 §2(part), 1964; prior Code §26.56.)

5.32.100 Revocation of Permits.

The Tax and Permit Inspector or the Chief of Police may revoke any permit or renewal issued under this chapter upon a determination that facts exist which would constitute grounds for denial of a permit under Sections 5.32.060 - 5.32.080. (Ord. 3023, 1964; prior Code §26.57.)

5.32.110 Revocation of Permit - Appeal.

Any person aggrieved by any decision of the Tax and Permit Inspector or the Chief of Police relating to the denial or revocation of a permit or renewal under this chapter shall have the right to appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3023 §2 (part), 1964; prior Code §26.58.)

5.32.115 Temporary Permit.

The Tax and Permit Inspector may issue a temporary permit to a peddler or solicitor who has applied for a permit required by Section 5.32.040 pending the issuance or disapproval of the permit if he is able to determine from information available to him, including but not limited to local police records, that the applicant appears to be of good moral character. The length of time the applicant has been in the community is a factor which the Tax and Permit Inspector may consider in determining whether to issue a temporary permit. If the Tax and Permit Inspector is unable to make such determination from information readily available to him or if it appears to him that the applicant is not of good moral character no temporary permit shall be issued. The temporary permit shall be valid only until the permit is issued or disapproved by the Tax and Permit Inspector and no appeal taken under Section 5.32.110 shall extend the duration of any temporary permit. The Tax and Permit Inspector may revoke any temporary permit upon the discovery of information which if available at the time of the issuance of the permit would have caused him to refuse to issue the permit. (Ord. 3222 §2, 1967.)

5.32.120 Permit Exemptions.

The provisions of this chapter shall not apply to selling to or taking orders from governmental agencies, nor shall they apply to any person required to obtain a permit under the provisions of Chapter 5.36. (Ord. 3023 §2(part), 1964; prior Code §26.59.)

Chapter 5.40

FORTUNETELLING

Sections:

5.40.010 Permit Required - Application - Approval - Denial - Appeal.
5.40.020 Permit - Exemptions.
5.40.030 Penalty for Violation - Unpaid Fees, Debt to City - Action Brought.

5.40.010 Permit Required - Application - Approval - Denial - Appeal.

It shall be unlawful for any person, whether acting as principal, agent, clerk, employee or otherwise, to commence or carry on or engage in the profession, calling, art, occupation or business of astrology, palmistry, phrenology, life reading, fortunetelling, cartomancy, crystal gazing, clairvoyance, clairaudience, magic, necromancy, psychism, psychometry, mind reading, mental telepathy, automatic writing, spirit writing, trance mediumship, sandgazing, materialization, ballot reading, conducting trumpet seances, prophecy, augury, divination, the making, giving or selling of charms, potions, talismans, or magic articles, without first having made application in writing to the Tax and Permit Inspector for a permit to do so, which permit shall be issued by the Tax and Permit Inspector only after order by the Board of Police and Fire Commissioners of the City. Further the Board of Police and Fire Commissioners may in its discretion grant or deny any application presented to it under this chapter; and, the decision of the Board of Police and Fire Commissioners with respect to the granting or denying of any such application shall be final and conclusive upon all persons and parties concerned, unless set aside or reversed or modified by the City Council, upon the aggrieved permittee's appeal duly filed pursuant to the provisions of Section 1.30.050 of this Code.

No privilege shall be exercised under any permit hereunder save and except after the payment to the City of the permit fee fixed by Chapter 5.04 of this Code.

Each permit issued hereunder shall continue in force and effect from and after its issuance only throughout and during the month of its issuance and the consecutive months thereafter for which the permit fee payable monthly in advance shall have been paid. (Ord. 5136, 1999; Ord. 2853 §1, 1961; prior Code §27.67.)

5.40.020 Permit - Exemptions.

This chapter shall not, nor shall anything in this chapter contained, apply to any ordained or duly accredited clergyman, minister, pastor or missionary of any form of religious belief or accredited to or ordained by any bona fide church, ecclesiastical organization or religious corporation, while engaged in ministering as such or conducting the religious worship, work or offices of the church, ecclesiastical organization, religious corporation, or religious belief; nor, to the faith, practice or teaching of any religious body or religious belief; provided, that the fees, gratuities, emoluments or profits shall be paid solely to or for the benefit of the church, ecclesiastical organization, religious corporation, religious body or faith concerned.

Further, this chapter shall not, nor shall anything in it contained, apply to any person exercising or demonstrating or exhibiting any profession, calling, art, occupation or business above specified in any regular theater permitted by this City or in any scientific demonstration conducted in any public educational institution in this City. (Ord. 2853 §2, 1961; prior Code §27.68.)

5.40.030 Penalty for Violation - Unpaid Fees, Debt to City - Action Brought.

Every person violating any provision of this chapter shall be deemed guilty of a separate offense for every day during any portion of which any such violation is committed, continued or permitted by such person and shall be punishable as provided in this chapter. Each violation of this chapter shall be punishable by a fine in a sum not exceeding two hundred dollars ($200.00) or by imprisonment in the County Jail for a term not exceeding one hundred (100) days or by both such fine and imprisonment. Further the amount of any permit fee or fees which should have been paid under this chapter prior to the exercise of any privilege exercisable hereunder after the payment of the tax fixed by Chapter 5.04 of this Code shall be deemed a debt due and owing to the City, and any person who should have paid the amount of the fee or fees shall be liable to an action to collect such debt brought in the name of the City of Santa Barbara in any court of competent jurisdiction. Provided, further, that arrest and conviction shall not be construed as a waiver of the right of the City to bring such civil action nor shall the bringing of such civil action release the defendant therein, or any other person, from criminal prosecution under this chapter. (Ord. 2853 §3, 1961; prior Code §27.69.)

Chapter 5.44

JUNK DEALERS, PAWNBROKERS AND SECONDHAND DEALERS

Sections:

5.44.010	**Definitions.**
5.44.015	**Exemptions.**
5.44.020	**Permit and Tax Required.**
5.44.030	**Application for Permit, Fees.**
5.44.040	**Issuance of Permit - Permit Prerequisite to Payment of Tax.**
5.44.050	**Revocation of Permit - Authorized - Grounds - Re-issuance.**
5.44.060	**Revocation of Permit - Hearing - Notice.**
5.44.070	**Daily Reports.**
5.44.100	**Daily Reports - Blank Forms.**
5.44.110	**Daily Reports - Filing - Inspection.**
5.44.120	**False Names, Addresses or Entries.**
5.44.130	**Effect of Conducting More than One (1) Business.**
5.44.140	**Regulations for Keeping Metals.**
5.44.150	**Records to be Kept.**
5.44.170	**Reports, Etc., to be in English Language.**
5.44.180	**Holding Period Before Sale or Disposition - for Pawnbrokers and Secondhand Dealers.**
5.44.190	**Waiting Period Before Sales - for Junk Dealers and Collectors.**
5.44.200	**Waiting Period Before Sales - When Non-applicable.**
5.44.210	**Hours of Business.**
5.44.220	**Dealings with Minors.**
5.44.230	**Certificate of Sales.**
5.44.240	**Exemptions from Chapter.**
5.44.250	**Unlawful Acts.**
5.44.300	**Reporting Repair of Business Machines.**

5.44.010 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Junk collector" means any person having no fixed place of business in the City engaged in or carrying on the business of collecting, buying or selling any old rags, sacks, bottles, cans, papers, rubber goods, metals, rubbish, manure, waste material, refuse matter of any kind or other articles of junk; provided however, that no permit issued under the provisions of this chapter shall be deemed or construed to authorize or permit anything in violation of Chapter 7.16, relating to garbage and rubbish or the collection or removal of dead animals.

(2) "Junk dealer" means any person having a fixed place of business in the City commencing, conducting, or carrying on the business of buying, selling or otherwise dealing in, either at wholesale or retail, of any old rags, sacks, bottles, cans, papers, metal or other articles commonly known as junk.

(3) "Non-profit organization" means a corporation organized under the General Non-Profit Corporation Law of the State of California and certified as exempt from Federal Income Tax by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code.

(4) "Pawnbroker" means any person commencing, conducting or carrying on or purporting to carry on the business of loaning money for himself, or for any other person, upon personal property, personal security, pawns or pledges, or the business of purchasing articles or personal property and reselling, or agreeing to resell, such articles to the vendors or their assignees, at prices agreed upon at or before the time of such purchase.

(5) "Pawnshop" means any room, store or place in which any such business as described in paragraph (3) is engaged in, carried on or conducted.

(6) "Secondhand dealer" means any person commencing, conducting or carrying on the business of buying, selling or otherwise dealing in secondhand or antique goods, wares, clothing or merchandise; provided, however, that nothing in this chapter shall apply to the exchange of secondhand furniture or furnishings as payment in whole or in part for new furniture or furnishings given in exchange by a regular dealer in new furniture or furnishings; provided further, that nothing in this chapter shall apply to the sale of any secondhand goods, wares or merchandise sold by any public warehouseman at any warehouse in the City for non-payment of any storage bill for the storage in such warehouse of goods, wares or merchandise so sold.

Wherever used in this Code, the terms "secondhand" includes "antique," and "secondhand dealer" includes "antique dealer" in goods, wares or merchandise of all types and descriptions.

(7) "Tangible personal property" means property defined in Section 21627 of the Business and Professions Code. (Ord. 4114, 1981; Ord. 3945, 1978; Ord. 3535, 1972.)

5.44.015 Exemptions.

A person is exempt from reporting the receipt or purchase of tangible personal property pursuant to this chapter if that person is a secondhand dealer as defined in Business and Professions Code Section 21626, has obtained a license pursuant to Section 21641 of said Code and reports the receipt or purchase of such tangible personal property pursuant to Section 21628 of the Business and Professions Code or Section 21208 of the California Financial Code. (Ord. 4114, 1981.)

5.44.020 Permit and Tax Required.

It shall be unlawful for any person to engage in, conduct, manage or carry on or purport to carry on in the City, the business of pawnbroker, secondhand dealer, junk dealer or junk collector without first applying for and receiving a permit, in writing from the Chief of Police and without first paying any applicable taxes as provided in Chapter 5.04. Said permit shall be valid for one (1) year and shall be renewed each successive year. (Ord. 4114, 1981; Ord, 3766, 1975.)

5.44.030 Application for Permit, Fees.

Any person desiring to obtain a permit to conduct or carry on any business mentioned in Section 5.44.010 shall file an application in writing therefor with the Chief of Police, specifying, by street and number, the place where such business is proposed to be conducted or carried on. Such application shall be signed by the applicant and shall contain the address of such applicant. The Chief of Police is authorized to charge fees to pay for Department of Justice charges for processing of applications for permits and licenses authorized by this Code or State law. (Ord. 4114, 1981; prior Code §26.5.)

5.44.040 Issuance of Permit - Permit Prerequisite to Payment of Tax.

No permit to commence or conduct or carry on any business mentioned in Section 5.44.010 shall be granted by the Chief of Police to a person who fails, refuses, or neglects to comply with the laws or ordinances relating to and regulating the business for which such permit is sought. The Tax and Permit Inspector shall not accept payment of a tax from any person to conduct or carry on the business of pawn-broker, secondhand dealer, junk dealer or junk collector until the Chief of Police shall have granted a permit therefor. (Ord. 4114, 1981; Ord. 3125 §4, 1966; prior Code §26.6.)

5.44.050 Revocation of Permit - Authorized - Grounds - Re-issuance.

In the event that any person holding a permit to commence or conduct or carry on a business specified in Section 5.44.010 shall violate, or cause or permit to be violated, any of the provisions of this chapter or any provision of this Code or any other ordinance or of any law relating to or regulating any such business, or shall conduct or carry on such business in an unlawful manner, or shall cause or permit such business so to be conducted or carried on, it shall be the duty of the Board of Fire and Police Commissioners and the Board shall, in addition to other penalties provided for violation of this Code, revoke the permit issued for conducting or carrying on such business. If the permit is revoked, no permit shall be granted to such person to conduct or carry on any such business within six (6) months after such revocation. (Prior Code §26.7.)

5.44.060 Revocation of Permit - Hearing - Notice.

No permit issued under the provisions of this chapter shall be revoked until a hearing shall have been had by the Board of Fire and Police Commissioners in the matter of the revocation of such permit. Notice of the hearing shall be given in writing and served at least five (5) days prior to the date of hearing upon the holder of such permit, or his manager or agent, which notice shall state the ground of complaint against the holder of such permit or against the business carried on by such holder and shall also state the time when and place where such hearing will be had.

Such notice shall be served upon the holder of such permit by delivering the same to such person or his manager or agent, or any person in charge of or employed in the place of business of such holder, or if such person has no place of business, then at his place of residence; or by leaving such notice at the place of business or residence of such person of suitable age and discretion. If the holder of such permit cannot be found and service of such notice cannot be made upon him in the manner provided, then a copy of such notice shall be mailed postage fully prepaid, addressed to such holder of such permit at such place of business or residence, at least five (5) days prior to the date of such hearing. (Ord. 3766, 1975; Prior Code §26.8.)

5.44.070 Daily Reports.

A. Reports. Every pawnbroker, secondhand dealer, junk collector and junk dealer on each day before the hour of ten a.m. (10:00) shall make out and deliver to the Chief of Police, on a blank form to be obtained by such pawnbrokers, secondhand dealers, junk collectors and junk dealers from the Office of the Chief of Police or California Department of Justice for that purpose, a full, true and complete report of all goods, wares, merchandise, tangible personal property or things received traded, pledged or purchased or taken in trade during the day preceding the filing of such report. Such report shall show the hour of the day when such articles were received, traded, pledged or purchased or taken in trade and the true signature and address of the person by whom such article was left on deposit, pledged, sold or traded together with a description of such person. The description to be given of every such person shall show the style of dress, height, age, complexion, color of mustache or beard or both, where the same are worn, and if neither is worn, such fact should be noted. Such report shall also show the number of pawntickets, amount loaned, traded, purchased or pledged and a complete description of each article received, traded, deposited, pledged or purchased. If any article so left on deposit, received, pledged, purchased or traded has engraved thereon any number, word or initial, or contain any settings of any kind, the description of such article in such report shall contain such number, word or initial, and shall show the kind of settings and the number of each kind.

B. Exception. Junk collectors and junk dealers shall be exempt from the provisions of subsection A of Section 5.44.070 that require the reporting of old rags, sacks, bottles, aluminum cans, papers, boxes and rope. (Ord. 4114, 1981; prior Code §§26.9, 26.10, 26.11, 5.44.080, 5.44.090.)

5.44.100 Daily Reports - Blank Forms.

The Chief of Police shall approve forms to comply with the requirements of this chapter and shall use standardized forms prescribed by the California Department of Justice when practical. (Ord. 4114, 1981; prior Code §26.12.)

5.44.110 Daily Reports - Filing - Inspection.

The Chief of Police shall file in some secure place in his office or forward them to the California Department of Justice, all reports received pursuant to the terms of this chapter, and the same shall be open to inspection only by employees of the Police Department, law enforcement officers, or upon an order of a court of competent jurisdiction or of the Chief of Police made for that purpose. (Ord. 4114, 1981; prior Code §26.13.)

5.44.120 False Names, Addresses or Entries.

No person shall sign a fictitious name or address to any bill of sale for any goods, wares or merchandise referred to in this chapter, or to any pawnshop ticket or make any false entry in any report or record required by this chapter. (Prior Code §26.14.)

5.44.130 Effect of Conducting More than One (1) Business.

If any person shall carry on, at the same time, more than one (1) of the businesses referred to in Section 5.44.010, such person shall be deemed to be carrying on such business separate and apart from the other such business, and such person shall comply in all respects with the provisions of this chapter relating to each such business. (Prior Code §26.15.)

5.44.140 Regulations for Keeping Metals.

Every person known as a junk dealer or collector shall retain and keep on his premises, in a separate place designated for the purpose, all metals purchased by him, in the following manner:

The entire purchase of each day shall be put and kept in such designated separate place and the day's purchase shall be kept in its original condition for a period of three (3) days after purchase or receipt of copper, brass or other metals and shall be at all times open to the inspection of the Police Department. (Prior Code §26.16.)

5.44.150 Records to be Kept.

Every pawnbroker, secondhand dealer, junk dealer and junk collector shall keep a complete record of all goods, wares, merchandise or things pledged to or purchased or received by him, which record shall contain all of the matters required to be shown in the reports referred to and described in this chapter. Every such record and all goods, wares, merchandise and things pledged to or purchased or received by any such pawnbroker, secondhand dealer, junk dealer or junk collector shall be open at all times during business hours to the inspection of any law enforcement officer. (Ord. 4114, 1981; prior Code §26.17.)

5.44.155 Churches, Non-profit Organizations Exempted - Required to Keep Records.

No church or other non-profit organization shall be subject to the other provisions of this chapter, provided that any church or non-profit organization conducting a secondhand sale shall give the Chief of Police five (5) days' prior notice of the date and location of said sale, and shall keep complete records of all goods, wares, merchandise and things purchased, or received by said organization, for sale at said secondhand sale or sold by any individual at a secondhand sale conducted by any such church or organization. Every such record and all goods, wares, merchandise and things received by any such church or non-profit organization shall be open at all times during business hours to the inspection of the Chief of Police or any Police Officer. Said records shall be kept for one (1) year following said sale. (Ord. 3607, 1973.)

5.44.170 Reports, Etc., to be in English Language.

Every report and record required by the terms of this chapter to be filed or kept, shall be written or printed entirely in the English language, in a clear and legible manner. (Prior Code §26.19.)

5.44.180 Holding Period Before Sale or Disposition - for Pawnbrokers and Secondhand Dealers.

No pawnbroker or secondhand dealer shall sell or otherwise dispose of any article or thing within thirty (30) days after such article or thing has been purchased or received by such pawnbroker or second-hand dealer, except when the Chief of Police, for good cause, authorizes prior disposition with prior written authorization.

During the required holding period, the article or thing so purchased shall not be altered, changed or defaced and shall remain and be during the period in the same condition as when purchased or received by the pawnbroker or secondhand dealer. (Ord. 4114, 1981; prior Code §26.20.)

5.44.190 Waiting Period Before Sales - for Junk Dealers and Collectors.

No junk dealer or junk collector shall sell or otherwise dispose of any article or thing within three (3) days after such article or thing has been purchased or received by such junk dealer or junk collector. (Prior Code §26.21.)

5.44.200 Waiting Period Before Sales - When Non-applicable.

The provisions of this chapter shall not apply to the receipts or sale of any secondhand article by any person who received or purchased such secondhand articles from any other person who has made the required report to the Police Department and shall have held the articles for the length of time provided for in Sections 5.44.180 and 5.44.190; provided, however, that such person is required to report that such articles have been held by the person, from whom the articles were purchased for the length of time required by this chapter. (Prior Code §26.22.)

5.44.210 Hours of Business.

It shall be unlawful for any person engaged in conducting, managing or carrying on the business of pawnbroker, secondhand dealer, junk dealer or junk collector or for any agent or employee of any such person to accept any pledge of or to loan any money upon personal property, or to purchase or receive any goods, wares or merchandise or any article or thing, or in any manner whatsoever to engage in or conduct any such business between twelve midnight (12:00 a.m.) on Saturday and seven a.m. (7:00) of the following Monday, or between seven p.m. (7:00) of any day, other than Saturday or Sunday, and seven a.m. (7:00) of the following day. (Prior Code §26.23.)

5.44.220 Dealings with Minors.

No pawnbroker, secondhand dealer, junk dealer or junk collector shall purchase, or receive on deposit, or accept as a pledge any goods, wares, merchandise or anything whatsoever from, or make a loan to any person under the age of eighteen (18) years. (Prior Code §26.24.)

5.44.230 Certificate of Sales.

Pawnbrokers, secondhand dealers and junk dealers shall provide and furnish to the person from whom any goods, wares or merchandise are purchased a certificate of sale, a duplicate copy of which shall be kept on file by the purchaser. Such certificate of sale shall be signed by both the purchaser and seller. The duplicate copy of such certificate shall at all times be kept open to the inspection of the members of the Police Department. (Prior Code §26.25.)

5.44.240 Exemptions from Chapter.

Secondhand dealers of household furniture, and junk dealers or junk collectors of rags, bottles (other than milk or cream bottles), barrels, cans, shoes, lamps, stoves, household furniture, or scrap iron (when bought and sold for scrap) when purchasing or selling said items, are exempt from the requirements of this chapter for reports, records, waiting periods before resale and restrictions upon purchases from minors. Household furniture does not include sewing machines, musical instruments, oriental or Chinese rugs and all other merchandise bearing a serial number or evidence of having had a serial number or personalized initials or inscription. (Ord. 4114, 1981; Ord. 3945, 1978; prior Code §26.26.)

5.44.250 Unlawful Acts.

It shall be unlawful for any person engaged in conducting, managing or carrying on the business of pawnbroker, secondhand dealer, junk dealer or junk collector or for any agent or employee of any such person to fail, refuse or neglect to file any report in the form, in the manner, at the time and in all respects in accordance with the requirements of this chapter, or to fail, refuse or neglect to keep a record in the form and in the manner required by this chapter, or to fail, refuse or neglect to exhibit to any law enforcement officer, immediately upon demand for the privilege of such inspection, any such record or any goods, wares or merchandise or things pledged to or purchased or received by such person. (Ord. 4114, 1981; prior Code §26.27.)

5.44.300 Reporting Repair of Business Machines.

A. Reporting. Every business machine dealer shall report all used business machines that he has repaired pursuant to the procedure approved by the Chief of Police. No report of repair shall be required of a dealer servicing or repairing a machine in the possession of the owner to whom that dealer sold the machine when it was new.

B. Definition. As used in this section, the term "business machine" includes, but is not limited to, typewriters, adding machines, check-writing devices, cash registers, calculators, addressing machines, copying and accounting equipment, letter-sorting and folding devices, and recording equipment, but does not include office furniture or fixtures. (Ord. 4114, 1981.)

Chapter 5.48

BOXING, SPARRING OR WRESTLING MATCHES

Sections:

5.48.010 Generally.
5.48.020 Amateur Matches Permitted - School, College, University Defined.
5.48.030 Commercial Matches - Location - Supervision.
5.48.040 Commercial Matches - Permit Required - Fee - Special Police.

5.48.010 Generally.

Except as expressly permitted by Sections 5.48.020 - 5.48.040, no person shall conduct, carry on or engage in any boxing contest or sparring or wrestling match or exhibition for prizes of purses or to which an admission fee is received, within the City. (Prior Code §10.1.)

5.48.020 Amateur Matches Permitted - School, College, University Defined.

Amateur boxing contests or amateur sparring or wrestling matches or exhibitions or any combination thereof, conducted by or participated in exclusively by any school, college or university or by any association, or organization composed exclusively of such schools, colleges or universities when each contestant in any such contest, match or exhibition is a bona fide student regularly enrolled for not less than one-half (1/2) time in such school, college or university are hereby permitted and allowed to be held upon the grounds of any such school, college or university or within the C-2 Commercial Zone or less restrictive zone as set forth in the Zoning Ordinance of the City or in Laguna Field or Pershing Field within the City.

As used in this section, "school, college or university" shall mean every school, college or university supported in whole or in part from public funds and every other school, college or university which is determined by the State Board of Education to be maintained primarily for the giving of general academic instruction. (Ord. 3140 §1, 1966; prior Code §10.2.)

5.48.030 Commercial Matches - Location - Supervision.

Boxing contests, sparring and wrestling matches or exhibitions for prizes or purses, or where an admission fee is received, are hereby allowed within the City within any M-1 industrial district of the City and within Pershing Field of the City and within the so-called Laguna Field of the City, under the exclusive jurisdiction of the State Athletic Commission, which Commission shall have the sole direction, management and control over all such contests, matches or exhibitions to be conducted, held or given within the City. (Prior Code §10.3.)

5.48.040 Commercial Matches - Permit Required - Fee - Special Police.

Every person, before exercising any of the privileges conferred by Section 5.48.030 shall obtain from the City Treasurer, a permit to conduct any boxing contests, sparring or wrestling matches or exhibitions where an admission fee is received, and for such permit shall pay to the City Treasurer in advance, a fee of fifty dollars ($50.00). The permit, when issued, shall entitle the permittee to conduct such contests, matches or exhibitions for a period of ninety (90) days after the date of issuance, subject to the rules, regulations and orders of the State Athletic Commission; provided further, that each permittee shall employ the number of Policemen designated by the Chief of Police, and shall maintain the officers on duty at or about the premises at least one (1) hour prior to and throughout any boxing contest, sparring or wrestling match or exhibition which may be conducted within the City. The officers must be appointed by the Chief of Police. (Prior Code §10.4. Editor's note--The ordinance from which this section was derived was an initiative measure voted by the citizens on April 1, 1936.)

Chapter 5.52

AUCTIONS AND AUCTIONEERS

Sections:

5.52.010 Definitions.
5.52.020 Certain Advertising Prohibited.
5.52.030 Auctioned Goods not to be Other than Items Used in Business or Household - Exception.
5.52.040 Display and Tagging of Articles in Lots Prior to Auction - Addition or Removal of Articles from Lots.
5.52.050 Sale of Articles in Blind Packages Prohibited.
5.52.060 Misrepresentations - Generally.
5.52.070 Misrepresentations - During Course of Sale.
5.52.080 False Bidders and Boosters.
5.52.090 Substitution of Articles.
5.52.100 Article to be Delivered Within Twenty-Four (24) Hours After Payment.
5.52.110 Invoices to be Prepared on All Purchases Exceeding Two Dollars ($2.00).
5.52.120 Auction Sale of Jewelry and Furs Prohibited - Exception.
5.52.130 Jewelry and Furs - Permit Required - Conditions.
5.52.140 Jewelry and Furs - Labeling Articles.
5.52.150 Exemptions - Generally.
5.52.160 Exemptions - Executors, Public Officers, Etc.
5.52.170 Permit Required.
5.52.180 Permit Duration.
5.52.190 Permit - Application - Information to be Shown.
5.52.200 Permit Application - Bond.
5.52.210 Permit Application - Denial - Appeal.
5.52.220 Permit - Fee - Renewal.

5.52.010 Definitions.

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, unless a different meaning clearly appears from the context:

(1) "Auction" and "auction sale" mean a sale of property by public outcry to the highest bidder.

(2) "Auctioneer" includes and comprehends any person who shall, by public outcry, sell or offer to sell to the highest bidder, any property to be so sold through duly employed and permitted auctioneers.

(3) "Fake sale" is any one of the following:

(a) The sale of goods, wares or merchandise at auction or otherwise to agents or other persons purchasing the same for or on behalf of the owner or other person interested in the selling thereof;

(b) The offering for sale of goods, wares or merchandise of a different quality, brand or bearing a different trademark as the merchandise previously advertised for sale.

(c) The sale of any goods, wares or merchandise misrepresented as to quantity or quality or otherwise.

(d) The sale or offering for sale of any goods, wares or merchandise transported or brought into the City, and not constituting the original legitimate stock of goods, wares and merchandise of a place of business within the City, as the original and legitimate stock of goods, wares and merchandise of such place of business, at a bankrupt, insurance, mortgage, insolvency, assignee's, receiver's, trustee's, creditor's, executor's or administrator's sale, or a forced removal sale, or closing-out sale, or the sale of goods damaged by fire, smoke, water or otherwise. Nothing herein shall be deemed to prevent, nor shall it be considered unlawful to sell the original stock of goods, wares and merchandise of any place of business at a bankrupt, insurance, mortgage, insolvency, assignee's, receiver's, trustee's, creditor's or administrator's forced removal or closing-out sale, but the bringing of new stock into any such place of business or the adding of new stock to such original stock of goods, wares and merchandise and selling or offering to sell, such new stock or added stock of such goods, wares and merchandise at the place of business at any of the sales above described, is hereby declared unlawful and to be a fake sale within the meaning thereof.

(4) "Jewelry" is any article of personal adornment which is composed in whole or in part of gold, silver or platinum, or which contains any precious or semi-precious stone, or imitations thereof, and shall include wrist and pocket watches and clocks.

(5) "Lot" means an article or group of articles offered for sale at an auction at one time. (Prior Code §6.1.)

5.52.020 Certain Advertising Prohibited.

It shall be unlawful for any person to ring any bell or sound any other loud or noisy instrument for the purpose of attracting attention to any auction sale. (Prior Code §6.2.)

5.52.030 Auctioned Goods not to be Other than Items Used in Business or Household - Exception.

Whenever an auction is conducted in a private residence, or in a retail establishment, it shall be unlawful to sell or offer for sale at the auction, any goods or articles not actually belonging to and used by the owner or lessee of the premises, if the place of auction is a private residence, or which do not form a part of the regular stock in trade of the merchant occupying the premises, if the place of auction is a retail establishment; provided, however, that other articles may be sold as such auction if in any advertisements used to publicize the auction, the statement is made that other articles than those belonging to and used by the owner of the premises, or other articles than those which form a part of the stock in trade of the merchant, will be sold. Such articles shall be clearly tagged or labeled in such a manner as to indicate to prospective purchasers that the articles do not belong to and were not used by the owner or lessee of the premises, or do not form a part of the stock in trade of the merchant; and at the time of offering any such article for auction the auctioneer shall announce to the audience that the article does not belong to and was not used by the owner or lessee of the premises, or does not form a part of the stock in trade of the merchant. (Prior Code §6.3.)

5.52.040 Display and Tagging of Articles in Lots Prior to Auction - Addition or Removal of Articles from Lots.

For a period of at least two (2) days prior to the day of any auction sale, between the hours of nine a.m. (9:00) and five p.m. (5:00), all articles to be auctioned off or offered at the sale shall be prominently displayed upon the premises and open to inspection by the public. Each lot to be offered upon the date of the sale shall be numbered for identification; and at the time the lot is offered upon the block, the lot number shall be announced by the auctioneer. Every article in each lot to be offered on the day of the auction sale shall be marked with a clearly legible identification tag, identifying the articles as to lot number, and as to number within the lot. No article shall be added or removed from any lot at any time after it has been placed upon display, nor shall any lot be consolidated with all or any part of any other lot, nor may any lot be substituted for another lot, unless the fact of such withdrawal, consolidation or substitution is clearly announced to all prospective purchasers at the time the lot is offered for sale. No lot may be withdrawn from sale after two (2) bids have been made upon it, and the bids have been accepted by the auctioneer. (Prior Code §6.4.)

5.52.050 Sale of Articles in Blind Packages Prohibited.

It shall be unlawful for any auctioneer or agent, employee or assistant, to offer or attempt to dispose of any property at any auction sale in blind packages; and all articles in any lot shall be prominently displayed while the lot is being auctioned off. (Prior Code §6.5.)

5.52.060 Misrepresentations - Generally.

It shall be unlawful for any permittee, his agents, servants or employees, to make any statements which are false in any particular, or which have a tendency to mislead, or to make any misrepresentations whatsoever with reference to any article sold or offered for sale at public auction. (Prior Code §6.6.)

5.52.070 Misrepresentations - During Course of Sale.

It shall be unlawful during the course of the sale for the auctioneer or any agent, assistant or employee to display upon the auction block or in his hand any article which is not a part of the lot then being auctioned off; or to represent in any manner that an article not a part of the lot then being auctioned off is a part of the lot. (Prior Code §6.7.)

5.52.080 False Bidders and Boosters.

It shall be unlawful for any person to make or offer, or cause to be made or offered, a false bid or any other than a bona fide bid at a public auction or to act, or to employ any person to act, as a bybidder or what is commonly known as a "capper", "shill" or "booster" at any auction, or falsely to pretend to buy any articles at an auction sale, or to cause any person to do so. (Prior Code §6.8.)

5.52.090 Substitution of Articles.

It shall be unlawful for any auctioneer or agent, employee or assistant, to substitute any article in lieu of the article offered to and purchased by the bidder, except with the bidder's knowledge and consent; or to attempt to induce the purchaser of any article to accept, in lieu of the article, any other articles. (Prior Code §6.9.)

5.52.100 Article to be Delivered Within Twenty-Four (24) Hours After Payment.

It shall be unlawful for any auctioneer or agent, employee or assistant thereof, to refuse, fail or neglect to deliver complete and immediate possession to the purchaser within twenty-four (24) hours after the payment of the purchase price. (Prior Code §6.10.)

5.52.110 Invoices to be Prepared on All Purchases Exceeding Two Dollars ($2.00).

It shall be the duty of the auctioneer to make out an invoice containing a full and correct description of the articles sold and the price, for any purchase in excess of two dollars ($2.00), and to give the invoice to the purchaser when the purchase price is paid. Duplicate copies of the invoices will be kept by the auctioneer for a period of one (1) month after the purchase date. (Prior Code §6.11.)

5.52.120 Auction Sale of Jewelry and Furs Prohibited - Exception.

It shall be unlawful for any person to sell, offer for sale, or advertise for sale at public auction any jewelry, or any furs or garments composed in whole or part of furs; provided, however, that any person who has been engaged in the business of selling jewelry or furs at retail in the City for a period of at least a year may, upon obtaining a permit as provided in Section 5.52.170-5.52.220, conduct an auction solely for the purpose of disposing of his stock on hand and going out of business. (Prior Code §6.12.)

5.52.130 Jewelry and Furs - Permit Required - Conditions.

An applicant desiring to obtain a permit for the purpose of holding an auction under Section 5.52.120 shall file, together with the application form set forth in Section 5.52.190, a sworn statement, attesting to the facts that he has conducted the business of selling jewelry or furs at retail for the period of at least a year in the City, that the purpose of the auction is to close out the applicant's stock in trade, and that the jewelry or furs to be sold form a bona fide part of the applicant's stock in trade. The statement shall be accompanied by an inventory of the goods to be auctioned off, itemizing in detail the quality and wholesale price of each item of goods, together with the original date of purchase of each item. It shall be a condition of the granting of a permit for the purpose of holding such a sale that the books and accounts of the merchant shall be made available to the Tax and Permit Inspector or his deputies upon demand and refusal to permit inspection of the books and records shall be grounds for refusal of the permit. (Prior Code §6.13.)

5.52.140 Jewelry and Furs - Labeling Articles.

In the event of any closing-out sale of jewelry or furs, it shall be unlawful to sell any article, unless there is attached to each article a tag, card or label upon which shall be plainly written in the English language, in the case of jewelry, a true and correct statement of the kind and quality of the material of which the article is composed, whether the article is or is not plated, the true name and quality of any precious or semi-precious gems incorporated in the article, and whether the gems are natural or synthetic; and if the article be a watch or clock, the true name of the manufacturer thereof. If all or any portion of the movement or case of the watch or clock is used or secondhand, that fact shall be noted on the tag. If the articles being sold are furs or garments composed in whole or part of furs, the card or tag shall state the quality of the furs, together with the true name of the animal from which the fur was taken. Such card or tag shall be securely affixed to the article while the article is on display prior to the sale, and shall remain so affixed until the article is delivered into the hands of the purchaser, and shall be read to the audience when such article is offered for sale; and any inaccuracies in the information contained on the card or tag shall be deemed prima facie evidence of intent to defraud the purchaser of the article to which it is affixed. (Prior Code §6.14.)

5.52.150 Exemptions - Generally.

Nothing contained in this chapter shall apply to any sale made upon execution or by virtue of any process issued by a court, not to any sale made by any public officer in his official capacity required to be made under the laws of the United States or the State, or under the ordinances of the County, or any sale conducted under the provisions of the Uniform Warehouse Receipts Act; nor to any auction of livestock, nor any sale made under a nonstatutory assignment for the benefit of creditors generally, which sale shall be conducted by an auctioneer permitted pursuant to this chapter where the sale is limited to the stock in trade and fixtures on the premises in the City at the time of the assignment and where the sale is held on the premises. (Prior Code §6.15.)

5.52.160 Exemptions - Executors, Public Officers, Etc.

The provisions of this chapter shall not be applicable to trustees in bankruptcy, executors, administrators, receivers or public officers acting under judicial order or process; provided, there shall, prior to their acting, first be filed with the Tax and Permit Inspector of the City, a statement under oath, stating the name of the court and proceeding in which the order or process under which they are acting was obtained and stating the date thereof. (Prior Code §6.16.)

5.52.170 Permit Required.

It shall be unlawful for any person to hold himself out as an auctioneer, or to conduct or cause to be conducted an auction, unless such person shall have previously obtained a permit as provided in Section 5.52.190 (Prior Code §6.17.)

5.52.180 Permit Duration.

An auctioneer's permit shall be good for a period of one (1) year from the date of its issue; provided, however, that it may be revoked at any time for violation of any of the terms of this chapter, or in the event that the permittee is convicted of a felony. (Prior Code §6.18.)

5.52.190 Permit - Application - Information to be Shown.

Application for an auctioneer's permit shall be made in writing upon forms provided therefor to the Tax and Permit Inspector of the City at least thirty (30) days prior to the date of holding any auction. Each application shall be verified, and shall contain:

(1) The name, address and principal place of business of the applicant;
(2) The nature of the business and the length of time he has been engaged in it;
(3) The place at which the auction is to be held and the type of merchandise to be sold;
(4) Whether or not he has even been convicted of a felony or misdemeanor other than traffic violations, and the nature of the felony or misdemeanor;
(5) The names and addresses of three (3) character references living in the County of his residence. (Prior Code §6.19.)

5.52.200 Permit Application - Bond.

Each application for an auctioneer's permit must be accompanied by a bond in the principal amount of at least two thousand five hundred dollars ($2,500.00), the form of which shall be approved by the City Attorney, with one (1) or more sureties thereon, to be approved by the City Attorney. The condition of each bond must be substantially such, that the principal named will faithfully conform to each and all of the ordinances of the City and each and all of the laws of the State, whether then in force or which may thereafter be adopted, relating to auctions or the business of auctioneers, and the prevention of fraudulent practices in general. The bond shall provide that the principal and surety named in the bond, and their heirs, executors, administrators, successors and assigns shall be jointly and severally bound unto the City and unto any and every person aggrieved or damaged by a breach of the condition of the bond, and the bond shall provide that the bond shall not be void upon the first recovery, but may be sued and recovered upon from time to time, by the City or any person aggrieved or damaged in his own name, until the whole penalty is exhausted; and the life of the obligation of such bond shall be made such that it will continue for such length of time as such permit remains in force and effect. (Prior Code §6.20.)

5.52.210 Permit Application - Denial - Appeal.

If, upon investigation of the applicant for an auctioneer's permit, it shall appear that the applicant is not a person of good moral character, or that he has knowingly falsified any statement in his application, the Tax and Permit Inspector shall refuse to approve the permit; and, in the event that the permit is refused, the applicant may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Prior Code §6.21.)

5.52.220 Permit - Fee - Renewal.

At the time of application, the applicant for an auctioneer's permit shall pay the sum of twenty-five dollars ($25.00). If the applicant has not for the period of six (6) months immediately preceding his original application been a resident of the County, he shall pay in addition at the time of his original application, but not upon subsequent, renewal applications, the sum of fifty dollars ($50.00), which sum shall be used to defray the cost of investigating the truth of the statements made in the application, and the references of the applicant. Renewal of any permit required by this chapter shall be promptly applied for at the expiration date thereof. Should application for a renewal permit be made more than ten (10) days following the expiration date of the permit, then a fifty percent (50%) penalty charge to defray the cost to follow up shall be required for the renewal, in addition to the permit cost. (Prior Code §6.22.)

CHAPTER 5.62

CABLE TELEVISION COMMUNICATIONS FRANCHISES

Sections:

5.62.010	**Definitions.**	**5.62.090**	**Violations.**
5.62.020	**Cable and Related Service Franchises.**	**5.62.100**	**Termination and Forfeiture.**
		5.62.110	**Franchise Applications.**
5.62.030	**Rights Reserved to the Grantor.**	**5.62.120**	**Records, Reports; Right to Inspect and Audit.**
5.62.040	**Rights of Subscribers.**		
5.62.050	**Finance.**	**5.62.130**	**Enforcement Mechanisms.**
5.62.060	**Services.**	**5.62.140**	**Areawide Interconnection of CATV Systems.**
5.62.070	**Design and Construction.**		
5.62.080	**Operations and Maintenance.**	**5.62.150**	**Miscellaneous Provisions.**

5.62.010 Definitions.

A. **DEFINED TERMS.** The various terms and phrases used in this Chapter are defined as follows:

(For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.)

1. **Administrative Officer.** The City Administrator or the City Administrator's designee.
2. **Agency Subscriber.** A subscriber who receives a Service in a government or public agency, school, or non-profit corporation facility.
3. **Affiliated Person (or Affiliates).** Each Person who falls into one or more of the following categories:
   a. each Person having, directly or indirectly, a Controlling Interest in Grantee;
   b. each Person in which Grantee has, directly or indirectly, a Controlling Interest;
   c. each officer, director, general partner, limited partner holding an interest of five percent (5%) or more, joint venturer, or joint venture partner in Grantee's Cable System in the City; and
   d. each Person, directly or indirectly, controlling, controlled by, or under common Control with Grantee; provided that Affiliated Person excludes the Grantor, any limited partner holding an interest of less than five percent (5%) in the Grantee, or any creditor of Grantee, solely by virtue of its status as a creditor, and which is not otherwise an Affiliated Person by reason of owning a Controlling Interest in, being owned by, or being under common ownership, common management, or common Control with Grantee.
4. **Basic Service, Basic Cable Service or Basic Service Tier.** The lowest Service Tier which includes the retransmission of local television Broadcast Signals and Public, Government, and Education Access Channels.
5. **Broadcast Signal.** A signal transmitted over the air to a geographically dispersed public audience and received by a Cable System.
6. **1984 Cable Act.** The Cable Communications Policy Act of 1984.
7. **1992 Cable Act.** The Cable Television Consumer Protection and Competition Act of 1992.
8. **Cable Act.** The 1984 Cable Act as amended by the 1992 Cable Act and by the Telecommunications Act of 1996.
9. **Cable Operator.** Any person or group of persons who either: a. provides cable service over a cable system and directly or through one or more affiliates owns a controlling interest in such cable system, or b. otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.
10. **Cable Service.** The one-way transmission to Subscribers of: a. video programming, or b. other programming service; or, c. subscriber interaction in conjunction with the one-way transmission of video programming or other programming services which is required for the selection of or use of such video programming or other services.
11. **Cable System or Cable Communications System or System.** A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include the following: a. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; b. a facility that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; c. a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Cable Act, except that such facility shall be considered a cable system [other than for purposes of section 621(c)] to the extent such facility is used in the transmission of video programming directly to subscribers; or d. any facilities of any electric utility used solely for operating its electric utility system.

12. **Cablecast Signal.** A non-broadcast signal that originates within the facilities of the Cable System, whether from a live or recorded source.

13. **City.** The City of Santa Barbara.

14. **Closed Circuit or Institutional Service.** Services provided to institutional users on an individual or collective basis. The information contained in such a service may or may not be simultaneously available to other sys-tem Subscribers or users.

15. **Channel.** A frequency band capable of carrying a standard video signal or some combination of video signals, or a frequency band assigned to carry a non-standard video signal or some combination of such video signals.

16. **Commercial Subscriber.** A Subscriber who receives a Cable Service in a place other than a residential dwelling unit.

17. **Complaint.** Any situation involving a dispute or in which a Subscriber notifies Grantee of an outage or degradation in picture quality or billing concern which is not corrected during the initial telephone or service call.

18. **Control or Controlling Interest.** Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments, or negative control, as the case may be, of the Cable System or the Grantee. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly or indirectly, by any Person or group of Persons acting in concert (other than underwriters during the period in which they are offering securities to the public) of twenty percent (20%) or more of any Person (which Person or group of Persons is referred to as "Controlling Person"), or being a party to a management contract.

19. **Converter or Terminal.** A device which converts signals from one frequency to another or otherwise processes signals for use by Subscribers excluding, however, cable-ready television sets and VCRs which are not offered for sale or lease by the cable operator.

20. **Drop.** The cable and related equipment connecting the Cable System's plant to equipment at the Subscriber's premises.

21. **Education Channel.** Any channel where non-profit educational institutions are the primary designated programmers.

22. **FCC.** The Federal Communications Commission or its designated representatives.

23. **Franchise.** A written legal undertaking or action of the Grantor which authorizes a specific Person to use the Grantor's streets and public ways for the purpose of installing, operating and maintaining a Cable Communications System to provide Cable Service.

24. **Government Channel.** Any channel where local government agencies are the primary designated programmers, and programming is non-commercial informational programming regarding government activities and programs.

25. **Grantee.** The Person to which a Franchise is granted for the construction, operation, maintenance, and re-construction of a Cable System and the lawful successors, transferees, or assignees of that Person.

26. **Grantor.** The City, acting by and through its elected governing body, or such representative as the governing body may designate to act on cable matters in its behalf.

27. **Gross Annual Revenue or Gross Annual Receipts or Gross Receipts.** All revenue, as determined in accordance with Generally Accepted Accounting Principles, which is received, directly or indirectly, by Grantee and by each Affiliated Person from or in connection with the distribution of any Cable Service, and any other Service which may, under now or then applicable federal law, be included in the Cable Act definition for the purpose of calculating and collecting the maximum allowable franchise fee for operation of the System, whether or not authorized by any Franchise, including, without limitation, leased or access channel revenues received, directly or indirectly, from or in connection with the distribution of any Cable Service. It is intended that all revenue collected by the Grantee, and by each Affiliated Person, from the provision of Cable Service over the System, whether or not authorized by the Franchise, be included in this definition.

Gross Annual Revenue specifically includes, but is not limited to, the following:

a. any revenue received, as reasonably determined from time to time by the Grantor, through any means which is intended to have the effect of avoiding the payment of compensation that would otherwise be paid to the Grantor for the Franchise granted. Gross Annual Revenue also includes any bad debts recovered. Gross Annual Revenue also includes all advertising revenue which is received directly or indirectly by Grantee, any Affiliated Person, or any other Person from or in connection with the distribution of any Service over the System or the provision of any Service-related activity in connection with the System, including all revenue paid to, directly or indirectly, home shopping channels and networks.

b. the fair market value of any nonmonetary (i.e., barter) transactions between Grantee and any Person, other than an Affiliated Person, but not less than the customary prices paid in connection with equivalent transactions;

c. the fair market value of any nonmonetary (i.e., barter) transaction between Grantee and any Affiliated Persons but not less than the customary prices paid in connection with equivalent transactions conducted with Persons who are not Affiliated Persons; and

Gross Annual Revenue does not include the following:

a. the revenue of any Person to the extent that said revenue is also included in the Gross Annual Revenue of Grantee;

b. utility user and sales taxes imposed by law on Subscribers which Grantee is obligated to collect; and

c. amounts which must be excluded pursuant to applicable law.

28. **Headend.** That central portion of the System where signals are introduced into and received from the balance of the System.

29. **Institutional Network or Institutional System.** A System or portion of a System intended primarily to service non-residential Subscribers.

30. **Lease Channel.** Any channel where someone other than Grantor or Grantee is sold the rights to air programming.

31. **Local Origination Channel.** Any channel where the Grantee is the primary designated programmer.

32. **Monitoring or Tapping.** Observing or receiving a signal, where the observer is neither the sending nor receiving party and is not authorized by the sending or receiving party to observe said signal, whether the signal is observed or received by visual, electronic, or any other means whatsoever.

33. **Non-Broadcast Signal.** A signal that is not involved in over-the-air broadcast for general public reception.

34. **Pay Cable, Pay Service, Premium-Service or Pay Television.** Signals for which there is a per channel or per use fee or charge to users over and above the charge for Basic Service.

35. **PEG Channel.** A Public, Education or Government channel.

36. **Person.** A corporation, partnership, proprietor-ship, individual, or organization authorized to do business in the State of California.

37. **Plant.** The transmitting medium and related equipment which transmits signals between the Headend and Subscribers.

38. **Pole Attachment Agreement or Attachment Agreement.** An agreement with the Grantor, any other governmental entity, or any public utility relating to the Grantee's use of any utility poles, ducts, or conduits.

39. **Program or Programming.** The information content of a signal, whether that content is intended to be pictures and sound, or sound only.

40. **Programmer.** Any Person who provides program material or information for transmission by means of a System.

41. **Property of Grantee.** All property owned or leased within the Franchise Service Area by Grantee in the conduct of its System business under a Franchise.

42. **Public Channel, Access Channel, Community Service Channel or Community Channel.** A channel for which members of the public, or any community organization, may provide non-commercial, non-advertiser supported programming provided, however, sponsorship identification fees may be paid and accepted to further community programming.

43. **Resident.** A person residing in the Franchise Service Area, or as otherwise defined by applicable law.

44. **Residential Dwelling Unit or Dwelling Unit.** A home, mobile home, condominium, apartment, cooperative unit, and any other individual dwelling.

45. **Residential Subscriber.** A Subscriber who receives a Service in a Dwelling Unit.

46. **Service.** A service or type of benefit provided by Grantee, or any group of related benefits obtained or made available to any person, involving the use of a signal transmitted via a Cable Communications System, whether the signal and its content constitute the entire service or comprise only a part of a service which involves other elements of any number or kind.

47. **Service Area or Franchise Service Area.** The entirety of the City of Santa Barbara.

48. **Service Interruption.** The loss of picture or sound on one or more cable channels.

49. **Service Tier or Tier.** As defined in Section 602.17 of the Cable Act, as enacted as of the date of the adoption of this ordinance or hereinafter amended.

50. **Streets and Public Ways.** The surface of and the space above and below, any public street, sidewalk, alley, wharf, dock, or other public way or right-of-way of any type whatsoever.

51. **Subscriber.** A Person electing to subscribe to, for any purpose, a Service provided by Grantee by means of or in connection with its Cable System.

52. **Telecommunications Act.** The Telecommunications Act of 1996.

53. **Unit.** A discrete place where Services are used, such as a residence, apartment, office, store, etc.

54. **User(s).** A Person who either receives Services from a Cable System or who accomplishes any purposes by, in part or in whole, transmitting or receiving information via a Cable System.

B. **UNDEFINED TERMS; USAGE.** Words, terms, or phrases not defined herein shall first have the meaning as defined in the Cable Act, and then the special meanings or connotations used in any industry, business, trade, or profession where they commonly carry such special meanings. If those special meanings are not common, they will have the standard definitions as set forth in commonly used and accepted dictionaries of the English language. (Ord. 5004, 1997.)

5.62.020 Cable and Related Service Franchises.

A. **AUTHORITY TO GRANT FRANCHISES.** Pursuant to the authority of City Charter Article XIV, the Grantor may grant a Franchise to provide Cable Service to any Person who offers to provide a System pursuant to this Chapter.

B. **FORM.** A Franchise may, at Grantor's sole option, take the form of an ordinance, license, permit, contract, resolution, or any other form elected by Grantor.

C. **GRANTS NOT REQUIRED.** Consistent with applicable state and federal law, no provision of this Chapter requires the granting of a Franchise when, in the opinion of the Grantor, it is in the public interest not to do so.

D. **PURPOSE.** The purpose of a Franchise is to identify and authorize the operation of a Cable Communications System by a specific Grantee, and to identify and specify those terms, conditions, definitions, itemizations, specifications and other particulars of the agreement between the Grantor and Grantee. In so doing, a Franchise may clarify, extend, and interpret the pro-visions of this Chapter. Where a Franchise and this Chapter conflict, both shall be liberally interpreted to achieve a common meaning or requirement. In the event this is not possible within reasonable limits, the Franchise (together with the provisions of the authorizing ordinance) shall prevail. Unless otherwise specifically stated, no provision of this Chapter shall be deemed to be contractually incorporated into any Franchise granted hereunder.

E. **COMPLIANCE WITH LAW.** Neither this Chapter nor a Franchise granted under it relieves Grantee of any requirement of Grantor, or of any ordinance, rule, regulation, or specification of Grantor now or hereafter in effect pursuant to Grantor's police power, including, but not limited to, the obtaining of a business license, and the payment of all permit and inspection fees required from time to time by the Grantor.

F. **FRANCHISE NON-EXCLUSIVE.** Grantor may, at its option, grant one or more Franchises to construct, operate, maintain, and reconstruct a System. Said Franchises shall constitute both a privilege and an obligation to provide the System and Services required by this Chapter and the Franchise.

G. **DURATION.** The term of any Franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall be specified in the Franchise. The effective date of any Franchise shall be as specified in the Franchise.

H. **USE OF PUBLIC STREETS AND RIGHTS-OF-WAY.** For the purposes of operating and maintaining a System in the franchised Service Area, a Grantee may place and maintain within the public rights-of-way such property and equipment as are necessary and appurtenant to the operation of the Cable Communications System. Prior to construction or alteration of the Plant in public rights of way, the Grantee shall apply for, pay all applicable fees, and receive all necessary permits.

I. **USE OF OTHER UTILITIES.** Any Person who provides a System or Services as defined herein shall be deemed a Grantee and must obtain a Franchise. If such Grantee uses distribution channels furnished by any telephone company, other public utility, or any other entity which are functionally equivalent to those used by a Cable Operator, said Grantee shall be required to com-ply with all of the provisions of this Chapter.

J. **ASSIGNMENT, TRANSFER OR SALE OF FRANCHISE.** There shall be no assignment of a Franchise, in whole or in part, or any change in Control of the Grantee without the prior express written approval of the Grantor. Any assignment or transfer, or any change in Control, without the Grantor's prior written consent shall constitute a default which will cause a Franchise to terminate.

1. **Prior Written Request.** At least one hundred twenty (120) days before a proposed assignment or change in Control of the Franchise is scheduled to become effective, the Grantee shall request in writing the Grantor's written consent. The Grantee shall submit to the Grantor a written application in a form specified by relevant federal or state law, or, in the absence of such specification, in a format specified by the Grantor together with:

a. any other information or documentation required by the State or Federal government (including the FCC);

b. the declaration required by subsection J(5) below;

c. unedited and unredacted copies of the sale or transfer documents with all schedules and exhibits thereto; and

d. information regarding the financial ability and stability of the proposed assignee with respect to being able to perform all obligations of the existing Franchise.

2. **Standard of Reasonableness.** The Grantor shall not unreasonably withhold its consent to such an assignment or change in control. However, in evaluating the request for assignment, transfer, sale, or change in Control, the Grantor may, in its sole discretion and among other things, undertake a technical inspection and audit of the System to determine whether the System complies with all applicable technical and safety codes, and with this Chapter and the Franchise.

3. **Lack of Compliance.** If the Grantor determines (as a result of the technical inspection and audit) that the System does not comply with federal, state, or local standards, then the Grantee shall be provided with an opportunity to correct or cure the non-compliance. In the alternative, the Grantor may work with both the current and proposed Grantee to cure the non-compliance.

4. **Review of Operational Reports.** If the Grantee has not previously supplied the Grantor with certain operational reports and data, then the Grantee shall submit to the Grantor the following reports at the time it submits the report required pursuant to subsection 5.62.020(J)(1) above:

a. FCC Form 395-A relating to equal employment opportunity and fair contracting policies or a form specified by relevant federal or state law or, in the absence of such specification, in a format specified by the Grantor;

b. Periodic revenue statements in the format referenced in this Chapter; and

c. Subscriber logs in the format referenced in Section 5.62.040(E) of this Chapter.

5. **Written Acknowledgment of Franchise.** Before an assignment or change in Control is approved by the Grantor, the proposed assignee, transferee, or buyer shall execute a declaration acknowledging that it has read, understood, and will abide by both this Chapter and the applicable Franchise.

6. **Assumption of Franchise Obligations.** In the event of any approved assignment or change in Control, the assignee or transferee shall assume all obligations and liabilities of the former Grantee relating to the Franchise unless specifically relieved by the Grantor at the time the assignment or change in Control is approved.

7. **Disapproval.** If the Grantor disapproves a request for consent, then the Grantee may submit another request or an amended request for consent. In such a situation, the one hundred twenty (120) day time-frame begins to run anew.

8. **Reimbursement of Processing and Review Costs for Transfers and Renewals.** To the extent not prohibited by applicable law, Grantee shall reimburse Grantor for Grantor's reasonable processing and review expenses in connection with a transfer of the Franchise or a change in Control of the Franchise, including without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee, costs of consultants (including technical and legal experts), notice and publication costs, and document preparation expenses. In addition, prior to any transfer or change in Control, Grantee shall reimburse Grantor for all of Grantor's expenses in connection with evaluating or negotiating a renewal of Grantee's franchise, whether or not said renewal was ever finalized or granted. Grantor may send Grantee an itemized description of all such charges, and Grantee shall pay such amount within twenty (20) days after the receipt of such description. Any such reimbursement shall not be charged against any franchise fee due to the Grantor during the term of the franchise.

9. **Violation.** If the Grantee violates any provision of subsection J of this Section 5.62.020, the Franchise shall automatically terminate. The procedures contained in Section 5.62.100 shall not apply to an unlawful transfer or change in Control, and the Franchise shall automatically terminate upon the occurrence of such a violation. (Ord. 5004, 1997.)

5.62.030 Rights Reserved to the Grantor.

A. **RESERVATION OF RIGHTS.** Grantor reserves every right it may have in relation to its power of eminent domain over Grantee's Franchise and property.

B. **NON-WAIVER.** Neither the granting of any Franchise, nor any provisions of this Chapter, shall constitute or be construed as a waiver or bar to the exercise of any governmental right or power by Grantor.

C. **DELEGATION OF POWERS.** Any right or power in, or duty retained by or imposed upon Grantor, or any commission, officer, employee, department, or board of Grantor, may be delegated by Grantor to any officer, employee, department or board of Grantor, or to such other person or entity as Grantor may designate to act on its behalf.

D. **RIGHT TO INSPECT CONSTRUCTION.** The Grantor shall have the right to inspect all construction, installation, or other physical work performed by Grantee in connection with the Franchise, and to make such tests as may be necessary to ensure compliance with the terms of this Chapter and the Franchise, so long as said inspection and testing does not unreasonably interfere with Grantee's operations.

E. **RIGHT TO REQUIRE REMOVAL OF PROPERTY.** Consistent with applicable law, at the expiration of the term or any renewal term or extension for which the Franchise is granted, or upon its lawful revocation, expiration, or termination, the Grantor shall have the right to require the Grantee to remove, at Grantee's expense, all portions of its System and any other property from all streets and public rights-of-way within the Franchise service area within a reasonable period of time.

F. **RIGHT OF INTERVENTION.** The Grantor shall have the right of intervention in any suit, proceeding or other judicial or administrative proceeding in which the Grantor has any material interest, and to which the Grantee is party.

G. **PLACE OF INSPECTION.** The Grantor shall have the right to inspect Grantee's local premises, and to request copies of all relevant information that is reasonably necessary for the exercise of Grantor's regulatory authority, upon reasonable notice at any time during normal business hours. Any Grantee records kept at another place shall, within ten (10) days of Grantor's request, be made available at Grantee's local premises within the County of Santa Barbara for Grantor's inspection and copying. All reports and records required pursuant to this Chapter shall be furnished at the sole expense of Grantee, except as otherwise provided in this Chapter or the Franchise. (Ord. 5004, 1997.)

5.62.040 Rights of Subscribers.

A. **DISCRIMINATORY PRACTICES PROHIBITED.** The Grantee shall not deny Cable Service or otherwise discriminate against Subscribers or others on the basis of race, color, religion, national origin, sex, age, handicap, or other protected classes. The Grantee shall strictly adhere to the equal employment opportunity requirements of federal, state, or local governments and shall comply with all applicable laws and executive and administrative orders relating to non-discrimination.

B. **TAPPING AND MONITORING.** The Grantee shall not tap or monitor, or permit any other person controlled by Grantee to tap or monitor, any cable, line, signal input device or subscriber outlet or receiver, for any purpose whatsoever without the express written consent of the Subscriber or a court order therefor; provided, however, that the Grantee may monitor customer service calls for quality control purposes and may conduct system-wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return path transmission, or checking for unauthorized connections to the Cable Television System, service levels, or billing-for-pay services.

C. **DATA COLLECTION.**

1. **Confidentiality of Customer Preferences.** Except for its own use, or in connection with the provision of Cable Services or for release of data to the Grantor, the Grantee shall not permit its system to be used for data collection purposes, nor shall it otherwise collect data which would reveal the commercial product or other preferences or opinions of an individual Subscriber, members of their families, or their guests, licensees or employees, unless the Grantee shall have received the prior written consent of such Subscriber.

2. **Release of Aggregate Data Only.** In any event, the Grantee shall not disclose or permit the release or sale of data on individual Subscribers or groups thereof, but may disclose or permit the release or sale of aggregate data only.

D. **DISCLOSURE OF SUBSCRIBER PREFERENCES.**

1. Grantee shall not disclose individual Sub-scriber preferences, viewing habits, beliefs, philosophy, creeds, or religious beliefs to any third person, firm, agency, governmental unit, or investigating agency without court authority or the prior written consent of the Subscriber.

2. Such written consent, if given, shall be limited to a period of time not to exceed one year, or a term agreed upon by the Grantee and the Subscriber.

3. The Grantee shall not condition the delivery or receipt of Cable Services to any Subscriber on any such consent.

4. A Subscriber may revoke, without penalty or cost, any consent previously given by delivering to the Grantee in writing a statement of the Subscriber's intent to so revoke.

E. **DISCLOSURE OF SUBSCRIBER LISTS.** The Grantee shall not disclose, or sell, or permit the disclosure or sale of its sub-scriber list without the prior written consent of each Subscriber on such list; however, Grantee may use its subscriber list as necessary for the construction, marketing, and maintenance of the Grantee's services and facilities authorized by a Franchise, and the billing of Subscribers for Cable Services and Grantor may use Grantee's subscriber list for the purpose of communication with Subscribers in connection with matters relating to the operation, management, and maintenance of the Cable System.

F. **OTHER PERSONS AFFECTED.** The prohibitions contained in paragraphs A through E, inclusive, of this Section apply to Grantee, as well as to all of the following:

1. Officers, directors, employees, agents and General and Limited Partners of the Grantee;

2. Any person or combination of persons owning, holding, or controlling twenty percent (20%) or more of any corporate stock or other ownership interests in the Grantee;

3. Any affiliated or subsidiary entity owned or controlled by Grantee, or in which any officer, director, stockholder, general, or limited partner, or person or group of persons owning, holding or controlling any ownership interest in the Grantee, shall own, hold or control twenty percent (20%) or more of any corporate stock or other ownership interests; and

4. Any person, firm, or corporation acting or serving in the capacity of a holding or controlling company of the Grantee.

G. **SUBSCRIBER NOTICE OF RIGHTS.** Grantee shall provide to all Subscribers, at the time of initial connection and annually thereafter, a notice describing, in understandable language, the Subscriber's rights and obligations that are generally provided under the Franchise and federal law, including a description of how to contact the Grantee and, if necessary, the Grantor, in the event of an unresolved Subscriber complaint.

H. **NOTICE TO NEW SUBSCRIBERS.** Before providing Cable Service to any Subscriber, Grantee shall provide a written notice to the Subscriber containing substantially the following information:

"Subscriber understands that Company uses public rights-of-way and other facilities of the City of Santa Barbara in providing service and that this continued use cannot be guaranteed. Subscriber agrees not to make any claims against the City of Santa Barbara or its officers or employees in the event that such use is denied for any reason, and Company is unable, in its discretion, to provide service over alternate routes."

I. **COMPLAINT ADVICE.** Grantor may require Grantee to advise its Subscribers that complaints of poor service should be made to Grantor's representative if such complaints are not resolved by Grantee to the satisfaction of a Subscriber. (Ord. 5004, 1997.)

5.62.050 Finance.

A. **PAYMENTS TO THE GRANTOR.**

1. **Franchise Fee.** As compensation for any Franchise to be granted, and in consideration of permission to use the Grantor's streets and public rights-of-way for the construction, operation, maintenance, and reconstruction of a System, the Grantee shall pay to the Grantor the amounts specified in the Franchise.

2. **Monthly Payments and Reports.** Payments due the Grantor shall be computed on a monthly basis and shall be paid to Grantor within fifteen (15) days after the close of each month. The payment shall be accompanied by a report showing the basis for the computation and such other relevant facts as may be required by the Grantor to determine the accuracy of the payment. A final annual reconciliation, and payment if any, shall be delivered to Grantor by Grantee within ninety (90) days after the end of each calendar year.

3. **Late Payments and Reports.** If any franchise payment or recomputed amount is not made on or before the dates specified above in subsection 2, Grantee shall pay as additional compensation the greater of the following:

a. An interest charge, computed from the applicable due date, at an annual rate equal to the prevailing commercial prime interest rate in effect upon the due date, plus one percent (1%).

b. A sum of money equal to ten percent (10%) of the overdue amount for each month, or part thereof, of delay, which sum shall also bear interest from the due date at an annual rate equal to the prevailing commercial prime interest rate in effect upon the due date, plus one percent (1%).

4. **Late Penalty.** In addition to any late payment made pursuant to subsection 3 above, if a payment is late by sixty days or more, Grantee shall pay a sum of money equal to five percent (5%) of the amount due in order to defray additional expenses and costs incurred by Grantor as a result of such delinquent payment.

5. **No Release.** No acceptance of any payment shall be construed as a release of, or an accord, or satisfaction of, any claim that the Grantor might have for further or additional sums payable under the terms of this Chapter, or for any other performance by Grantee of an obligation hereunder.

6. **Not Taxes, Fees, or Assessments.** Payments of compensation made by a Grantee to the Grantor pursuant to the provisions of this Chapter are in addition to, and exclusive of, any and all authorized taxes, business license fees, and other fees, levies, or assessments now in effect, or subsequently adopted.

B. **SECURITY FUND.**

1. **Cash Security.** Within thirty (30) days after the effective date of the Franchise, the Grantee shall deposit into a bank account established by the Grantee, for the benefit of Grantor, and shall maintain on deposit through the term of the Franchise, a sum specified in the Franchise as security for the faithful performance by Grantee of all of the provisions of the Franchise, and compliance with this Chapter and with all orders, permits and directions of the Grantor, or any designated representative of the Grantor having jurisdiction over Grantee's acts or defaults under the Franchise or this Chapter, and as security for the payment by the Grantee of any claims, fees, liens, or taxes due the Grantor which arise by reason of the construction, operation or maintenance of the System pursuant to the Franchise or this Chapter, and to satisfy any actual or liquidated damages arising out of a Franchise breach.

2. **Use of Security Deposit.** Except as otherwise provided in the Franchise, if the Grantee fails, after twenty (20) days written notice, to pay to the Grantor any fees that are due and unpaid, or fails to repay within such twenty (20) days, any damages, costs or expenses which the Grantor is compelled to pay by reason of any act or default of the Grantee in connection with its Franchise; or if Grantee fails to comply with any provision of the Franchise or this Chapter and the Grantor determines that such failure was without just cause and, in a manner consistent with the procedures specified in Section 5.62.130 of this Chapter, Grantor reasonably determines it can be remedied by a withdrawal from the security fund or is nevertheless subject to liquidated damages, then, in any such event, the Grantor may immediately withdraw the amount thereof from the security fund, with interest and any liquidated damages. Upon such withdrawal, the Grantor shall notify the Grantee of the amount and the date of withdrawal.

3. **Restoration of Security.** Within thirty (30) days after notice to Grantee that any amount has been withdrawn by Grantor from the security fund, the Grantee shall deposit a sum of money sufficient to restore such security fund to the original amount.

4. **Release of Security.** Grantee shall be entitled to the return of the security fund, or portion thereof, with interest, that remains on deposit at the expiration or termination of the Franchise, once all amounts due to the Grantor have been paid. Grantee shall also retain its right to challenge any withdrawal from such security fund.

5. **Rights not Exclusive.** The rights reserved to the Grantor with respect to the security fund are in addition to all other rights of the Grantor, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the Grantor may have.

C. **FAITHFUL PERFORMANCE BOND.** Within thirty (30) days after the effective date of the Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond in favor of the Grantor, with corporate surety approved by the Grantor (which approval shall not be unreasonably withheld) in the sum specified in the Franchise and conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of the Franchise; provided, however, that such bond shall not be required after certification by Grantor of the completion of construction of Grantee's Cable System. The corporate surety must be authorized to issue such bonds in the State of California, and the bond must be obtained and secured through an authorized agent within the state of California only. During the course of construction, the amount of the bond may from time to time be reduced, as provided in the Franchise. Written evidence of payment of premiums shall be filed with the Grantor.

D. **LETTER OF CREDIT.**

1. **Bank Letter of Credit.** At the option of the Grantor, the Grantee may be authorized, in lieu of creating a Security Fund or obtaining a Faithful Performance Bond, to post an irrevocable letter of credit, issued by a bank approved by the Grantor, in the amount specified in the Franchise. Said letter of credit shall incorporate wording approved by the Grantor enabling it to draw from time to time such funds as the Grantor may determine to be necessary to satisfy any material defaults of Grantee or to make any payments due Grantor under or in connection with this Chapter or Grantee's Franchise, upon ten (10) days written notice to the issuer of the letter of credit. Said letter of credit shall further provide for sixty (60) days written notice by certified mail from its issuer to Grantor of any pending expiration or cancellation, and said notice shall without further cause constitute reason for the Grantor to draw the full sum to be held in its own accounts until such letter of credit is re-established in a form satisfactory to Grantor.

2. **Letter of Credit Fees.** If Grantor requires such a letter of credit, Grantee shall pay all fees or other charges required to keep it in force and shall, within thirty (30) days of any draw by Grantor, restore its face value to the original amount.

3. **Applicability of Prior Security Provisions.** All provisions herein applicable to bonds or security funds shall also apply to letters of credit. (Ord. 5004, 1997.)

5.62.060 Services.

A. **SERVICES TO BE PROVIDED.** A Cable System shall provide, as a minimum, the broad programming categories specified in the Franchise.

B. **CHANGES IN SERVICES.** Grantee shall inform Grantor and its Subscribers at least thirty (30) days in advance of making any change in a Cable Service, or in the rates charged therefor, unless Grantor agrees to waive this requirement in writing.

C. **NON-DISCRIMINATION.** Grantee shall not discriminate between or among Subscribers within one type or class in the availability of services, at either standard or differential rates according to published rate schedules, except as otherwise authorized by law. No charges may be made for services except as listed in published schedules which are available for inspection by anyone at Grantee's office, quoted by Grantee on the telephone, or displayed or communicated to all potential Subscribers.

D. **PREPAYMENT.** Grantee may not charge Subscribers for services more than one (1) month in advance unless an individual Subscriber requests a longer period. Bills may be due and payable upon mailing but shall not be delinquent, and no late charge penalties shall be assessed, until the later of: (i) twenty-two (22) days from postmark; or (ii) service has actually been provided for the billed period. All bills and billing statements shall clearly indicate the billing period, the actual due date, and the delinquent or late payment or assessment.

E. **DISCONNECT FOR CAUSE.** Grantee may disconnect a Subscriber only for cause, which shall include, without limitation, the following:

1. Payment delinquency in excess of forty-five (45) days after the delinquent bill was mailed to the Subscriber.
2. Willful or negligent damage to or misappropriation of Grantee's property.
3. Monitoring, tapping, or tampering with Grantee's system, signals, or service.
4. Threats of violence to Grantee's employees or property.

F. **RECONNECTION.** Grantee shall, upon Subscriber's written request, reconnect service which has been disconnected for payment delinquency when payment has removed the delinquency. If authorized by applicable law, a published standard charge may be made for reconnection. Grantee shall not be required to make more than three (3) reconnections for the same subscriber if the disconnections involved were caused by payment delinquency within any previous twenty-four (24) month period. Reconnection for disconnects covered by subsection E(2), E(3), or E(4) above shall be at Grantee's sole discretion.

G. **INSTALLATIONS.**

1. **Service within Franchise Service Area.** Grantee shall promptly provide and maintain service to the residential, commercial, and industrial structures as specified in the Franchise Service Area, as defined in the Franchise, upon request of the lawful occupant or owner.

2. **New Drops.** In the case of a new drop, Grantee shall advise each Subscriber that the Subscriber has the right to require that installation be done over any route on the Subscriber's property, and in any manner the Subscriber may elect which is technically feasible and consistent with proper construction practices. If the Subscriber requests installation other than a standard installation, then the Subscriber may be required to pay a reasonable fee for the time and materials occasioned by that installation.

3. **Standard Installation.** For purposes of this paragraph, a standard installation shall include installation of drop cable with fittings up to one hundred and fifty feet (150) feet from the CATV distribution system measured along the cable from the center line of the street or utility easement through the house wall or, at the Subscriber's option, through the floor from a house vent or crawl space directly to the Subscriber's television set with eight feet of cable from the wall or floor entry to the TV set. Also included as part of a standard installation is the grounding cable, fine tuning of the television set, and the provision by the Grantee of the appropriate literature and information.

4. **Time for Delivery of Service.** After Cable Service has been established by activating trunk or distribution cables for any area, Grantee shall provide Service to any person requesting Service in that area within seven days from the date of request, provided that the Grantee is able to secure all rights-of-way necessary to extend service to that potential Subscriber within that seven (7) day period on reasonable terms and conditions.

H. **NON-STANDARD INSTALLATIONS.** For each non standard drop installed, the Grantee may charge the subscriber for the cost of material and labor in excess of that for a standard drop. Grantee shall provide to each Subscriber a written estimate of all charges prior to installation and obtain Subscriber's written authorization in advance for all non-standard drop charges.

I. **CONVERTER/TERMINALS.** At such time as a converter or terminal is required for Subscribers to have access to all services on its System, Grantee shall make them available to Subscribers. Grantee may require each Sub-scriber who elects to install a converter or terminal to furnish a security deposit therefor.

1. **Property of Grantee.** Each converter or terminal device shall be and remain the property of the Grantee unless Grantor approves or requires its sale to the Subscriber. Grantee shall be responsible for maintenance and repair of all equipment owned by Grantee and may replace it as Grantee may from time-to-time elect, except that Subscriber shall be responsible for loss of or damage to any such device while in the Subscriber's possession.

2. **Return of Converter/Terminal.** Upon termination or cancellation of Sub-scriber's service, Subscriber shall promptly return Grantee's property to Grantee in the same condition as received, reasonable wear and tear excepted.

3. **Use of Security Deposit.** Grantee may apply the security deposit against any sum due from Subscriber for loss of or damage to such converter or terminal exceeding reasonable wear and tear. In the event that no security deposit has been required, the Grantee may charge the Subscriber for any such damage exceeding reasonable wear and tear.

4. **Return of Security Deposit.** If Grantee has no claim against the Subscriber's security deposit, Grantee shall return it, or the balance, to the Subscriber within twenty (20) days of return of the converter or terminal. (Ord. 5004, 1997.)

5.62.070 Design and Construction.

A. **SYSTEM CONSTRUCTION.** The System shall be constructed in accordance with the provisions of the Franchise.

B. **CONSTRUCTION COMPONENTS AND TECHNIQUES.** Construction components and techniques shall be in accordance with the Franchise and all applicable law.

C. **TECHNICAL AND PERFORMANCE STANDARDS.** Grantee shall construct, install, operate and maintain its System in a manner consistent with all applicable federal and state laws, and all applicable local ordinances, construction standards, construction specifications, governmental requirements, FCC technical standards, and any standards set forth in the Franchise.

D. **CONSTRUCTION CODES.** The Grantee shall strictly adhere to all building and zoning codes currently or here-after in force and shall obtain all necessary permits. The Grantee shall arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said property by any person. In the event of such interference, the Grantor may require the removal of the Grantee's lines, cables, and appurtenances from the property in question. Grantee shall give at least forty-eight (48) hours advance notice to all property owners and to the Grantor prior to installing any above-ground or underground structures upon easements located on private property. Grantee shall be a member of Underground Service Alert. Grantor shall not modify its construction requirements subsequent to the completion of construction so as to require reconstruction or retrofit unless the public health and safety so requires.

E. **SYSTEM CONSTRUCTION SCHEDULE.**

1. The Grantee shall begin to offer Cable Service and any other service authorized by the Franchise no later than the date specified in the Franchise.

2. The Grantee shall provide a detailed construction plan indicating progress schedule, area construction or reconstruction maps, test plan, and projected dates for offering service.

F. **GEOGRAPHICAL COVERAGE.** The Grantee shall construct the Cable System to service every Residential Dwelling Unit and other structures specified in the Franchise within the Franchise Service Area and any future annexations thereto (as defined and provided by the Franchise), with any exceptions requiring specific Grantor approval. Service shall be provided to Subscribers in accordance with the schedules specified in the Franchise. The route of separate cables serving institutional subscribers shall be as approved by Grantor and specified in the Franchise.

G. **CONSTRUCTION DEFAULT.** Upon the failure, refusal or neglect of Grantee to cause any construction, repair, or the terms of any building permit, or other necessary work to comply with the terms of the Franchise, thereby creating an adverse impact upon public safety, Grantor may (but shall not be required to) cause such work to be completed in whole or in part, and upon so doing shall submit to Grantee an itemized statement of costs. Grantee shall be given reasonable advance notice of Grantor's intent to exercise this power, and fifteen (15) days to cure the default. Grantee shall, within thirty (30) days of billing, pay to Grantor the actual costs incurred.

H. **VACATION OR ABANDONMENT.** In the event any street, alley, public highway, or portion thereof used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, upon reasonable notice the Grantee shall forthwith remove its facilities therefrom unless specifically permitted to continue the same. On the removal thereof Grantee shall restore, repair or reconstruct the area where such removal has occurred, to such condition as may be required by the Grantor, but not in excess of the original condition. In the event of any failure, neglect or refusal of the Grantee, after thirty (30) days' notice by the Grantor, to do such work, Grantor may cause it to be done, and Grantee shall, within thirty (30) days of billing, pay to Grantor the actual costs incurred.

I. **ABANDONMENT IN PLACE.** Grantor may, upon written application by Grantee, approve the abandonment of any property in place by Grantee, under such terms and conditions as Grantor may approve. Upon Grantor-approved abandonment of any property in place, Grantee shall cause to be executed, acknowledged, and delivered to Grantor such instruments as Grantor shall prescribe and approve, transferring and conveying the ownership of such property to Grantor.

J. **REMOVAL OF SYSTEM FACILITIES.** In the event that Grantee's plant is deactivated for a continuous period of thirty (30) days (except for reasons outside Grantee's control), without prior written notice to and approval by Grantor, then Grantee shall, at Grantor's option and demand, and at the sole expense of Grantee, promptly remove from any streets or other areas all property of Grantee. Grantee shall promptly restore the streets or other areas from which such property has been removed to its condition existing prior to Grantee's use thereof; provided that Grantee shall not be required to remove conduit from underground, where Grantor has determined no damage to the surface of any structures will result from such non--removal.

K. **MOVEMENT OF FACILITIES.** In the event it is necessary at Grantor's discretion, to temporarily move or remove any of the Grantee's property to accommodate construction activity or a project of the Grantor, Grantee, upon reasonable notice, shall move, at the expense of Grantee, its property as may be required to facilitate such public purpose. No such movement shall be deemed a taking of Grantee's property. Nothing herein shall limit the right of Grantee to seek reimbursement from any party other than Grantor.

L. **UNDERGROUNDING OF CABLE.** Cables shall be in-stalled underground at Grantee's cost where either electricity or telephone utilities are already underground pursuant to the Grantor's adopted undergrounding policy. Previously installed aerial cable shall be installed underground at Grantee's pro rata cost in concert with other utilities only when such other utilities convert from aerial to underground construction.

M. **FACILITY AGREEMENTS.** No Franchise shall relieve Grantee of any obligations involved in obtaining pole or conduit space from any department of Grantor, any utility company, or from others maintaining utilities in Grantor's streets.

N. **EXTENSION OF FRANCHISE SERVICE AREA.** If Grantor elects to grant one or more Franchises hereunder, and if thereafter one or more of the Franchises expires or is otherwise terminated, Grantor may, if it so elects, require a remaining Grantee, or more than one, to extend its System to provide service to the Franchise Service Area previously served under the terminated Franchise, unless Grantee demonstrates to Grantor's reasonable satisfaction that it is not commercially practicable to do so; provided, however, that Grantee shall not be required to over-build any existing system. The terms and requirements of such extension shall not exceed those contained in this Chapter or in Grantee's Franchise.

O. **REPAIR OF STREETS AND PUBLIC WAYS.** Any and all streets and public ways, and improvements located within such streets and public ways, disturbed or damaged by the Grantee or its contractors during the construction, operation, maintenance, or reconstruction of the System, shall be restored at Grantee's expense, and within the time frame and limits specified by Grantor, to their original condition unless otherwise authorized in writing by Grantor.

P. **ERECTION OF POLES PROHIBITED.** The Grantee shall not erect any pole on or along any street or public way where there is an existing aerial utility system. If additional poles in an existing aerial route are required, Grantee shall negotiate with the public utility for their installation. Any such installation shall require the advance written approval of the Grantor. Subject to applicable federal and state law, the Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions.

Q. **RESERVATION OF STREET RIGHTS.** Nothing in a Franchise shall prevent the Grantor from constructing, repairing, or altering any public work. All such work shall be done, insofar as practicable, in such manner as not to unnecessarily obstruct, injure or prevent the free use and operation of any property of Grantee. However, if any property of Grantee shall interfere with the construction, maintenance, or repair of any public improvement, that property shall be removed or replaced in such manner as directed by Grantor so that the same shall not interfere with the public work, and such removal or replacement shall be at the expense of the Grantee. (Ord. 5004, 1997.)

5.62.080 Operations and Maintenance.

A. **MAINTENANCE AND COMPLAINTS.**

1. **Service Area Office.** The Grantee shall maintain an office in the Franchise Service Area, or at such other location as is approved by the Grantor in writing, or as described in the Franchise. That office must be open during all usual business hours, but in no case less than forty eight (48) hours per week, including at least one weekend day per week. Grantor shall have a publicly listed, non-toll-charge telephone number that is in operation to receive Subscriber complaints and requests on a 24-hour basis. Current information shall be maintained of all complaints and their disposition, and a summary thereof shall be submitted to Grantor upon request, but no more often than monthly.

2. **Response to Service Concerns.** The Grantee shall respond to requests as follows: (i) within eight (8) hours after receipt of a request for repairs relating to a Service Interruption affecting at least ten (10) percent of the Subscribers of the System; (ii) within twenty-four (24) hours after receipt of requests for service related to all other Service Interruptions; (iii) and within forty-eight (48) hours for all other complaints and requests for repair. All Cable System related problems shall be resolved within five (5) business days unless technically infeasible. No charge shall be made to a Subscriber for such service or repairs, except that Grantee may charge for service calls not related to its Cable System, or that are caused by the Subscriber or members of its household, or the Subscriber's agents or guests.

3. **Customer Service Telephone System.** The Grantee shall provide a telephone service system to receive all construction and service complaints. A sufficient number of customer service representatives shall be provided so that callers are not required to wait more than thirty (30) seconds before being connected to a customer service representative ninety percent (90%) of the time, measured quarterly, or to receive busy signals more than three (3) percent of the time, measured quarterly. The telephone number of the local office shall be listed in the telephone directory serving the City of Santa Barbara. The telephone service system shall accept complaints twenty-four (24) hours a day, seven (7) days a week. The telephone service system shall be capable of generating reports relating to answer times, response times, hold times, and abandoned calls.

4. **Identification.** Customer service personnel shall identify themselves immediately.

5. **Supervisors.** Customers shall have the right to speak with a supervisor, and if none is available, a supervisor shall return the customer's call within one working day.

6. **Grantee Identification.** All officers, agents, or employees of the Grantee, including its contractors or subcontractors, who come into regular contact with members of the public shall wear on their outer clothing a photo-identification card in a form reasonably acceptable to Grantor during those periods of time they are dealing with members of the public. Grantee shall account for all identification cards at all times. Every vehicle of Grantee, or its major subcontractors, shall be clearly identifiable as working for Grantee.

7. **Scheduling of Service Appointments.** Grantee shall provide Subscribers with the option of scheduling a four (4) hour period, either in the morning or afternoon, in which a service call will be made.

8. **Rescheduling of Late Appointments.** If a Grantee representative is running late for an appointment with a customer, or will not be able to keep the appointment as scheduled, the customer will be contacted and the appointment will be rescheduled, as necessary, at a time which is convenient for the customer. The customer has the option of rescheduling the appointment within a specified two (2) hour period.

B. **REMEDIES FOR INADEQUATE PERFORMANCE.** Except for rebuild or planned Service Interruptions for which Grantee receives prior approval from the Grantor or except for system-wide outages in excess of six (6) consecutive hours or twelve (12) nonconsecutive hours within any thirty (30) day period (for which fee rebates shall be paid to Subscribers by Grantee without a request thereof), in the event that one--third or more of its service to any Subscriber is interrupted for six (6) consecutive hours, or for a total of twelve (12) nonconsecutive hours within any thirty (30) day period, and Subscriber notifies Grantee of said Service Interruption within twenty-four (24) hours of Subscriber discovery thereof and requests a rebate of fees as a result thereof, Grantee shall provide a ten percent (10%) rebate of the monthly fees to affected Subscribers for each such consecutive six-hour and/or nonconsecutive twelve-hour Service Interruption period. Grantor shall provide a fifty percent (50%) rebate of the monthly fees to all affected Subscribers for failure to make a service call within the specified four (4) hour period. In no case shall such rebate exceed the monthly fee charged to the Subscriber.

C. **TRIENNIAL AUDIT OF PERFORMANCE.**

1. **Performance Audits.** Grantor may require, at its option, that performance audits of the System be conducted every three (3) years by an independent technical consultant selected and employed by Grantor to verify that the System complies with all technical standards and other specifications of the Franchise.

2. **Review of Audit.** Upon completion of a performance audit, the Grantor and Grantee shall meet to review the performance of the Cable System. The reports required by this Chapter regarding Subscriber complaints, the records of performance audits and tests, and the opinion survey report shall be utilized as the basis for review. In addition, any Subscriber may submit complaints prior to or during the review meetings, either orally or in writing, and these shall also be considered.

3. **Findings Regarding Compliance.** Within thirty (30) days after the conclusion of the System performance review meetings, Grantor shall issue findings with respect to the compliance of the System and quality of service. If non-compliance is found, Grantor may direct Grantee to correct the inadequacies within such period of time as Grantor determines is reasonable.

4. **Non-Waiver of Rights.** Participation by the Grantor and the Grantee in this process shall not waive any rights they may possess under applicable federal or state law.

5. **Other Audits.** In addition to the triennial Audit described above, Grantor may conduct an annual audit of the same or lesser magnitude, at its sole expense, when and if determined necessary or appropriate by Grantor.

D. **SYSTEM EQUIPMENT LOCATION.** Grantee shall provide Grantor with a computer disk or other data storage device requested by Grantor, in format approved by Grantor, which details and documents all of Grantee's equipment and facilities and their geographic location in the City. Such computer disk or other device shall be updated annually and whenever there have been significant changes in the location of Grantee's equipment and facilities. In addition, Grantee shall maintain in its local office, a complete and up-to-date set of as-built system maps and drawings upon completion of construction or reconstruction, equipment specification and maintenance publications, and signal level diagrams for each active piece of electronic equipment in the system. As-built drawings shall show all lines and installed equipment, and tap valves and spigots. The scale of maps and drawings shall be sufficient to show the required details in easily readable form and size. Technical data at the local office shall also include approved pole applications, details and documentation of satellite and microwave equipment, mobile radio units, heavy construction vehicles and equipment, and video and audio equipment normally used in the operation of the system. If Grantor requires use of technical data in its own office, it may make copies of any items at Grantor's expense. To the extent Grantee designates the provided information as proprietary or confidential, Grantor will, to the extent allowed by applicable law, utilize reasonable efforts to protect the confidentiality or proprietary nature of such information provided, however, that in so doing, Grantor makes no representations or warranties to Grantee regarding its ability to maintain the confidentiality of such information.

E. **AVAILABILITY OF TECHNICAL DATA.** All technical data shall be available for Grantor's inspection during normal business hours and, upon reasonable notice. In the event of System failure or other operating emergency, the technical data will be made available at any time, so long as the provision of said data does not unreasonably interfere with Grantee's operations.

F. **EMERGENCY REPAIR CAPABILITY.** It shall be Grantee's responsibility to assure that its personnel, qualified to make repairs, are available at all reasonable times and that they are supplied with keys, equipment location instructions, and technical information necessary to begin repairs upon notification of the need to maintain or restore continuous service to the System.

G. **CUSTOMER SERVICE STANDARDS AND PROCEDURES.**

1. **Information to Customers.** The Grantee shall, at the time service is initiated, provide each new Subscriber with written information covering:

a. The time allowed to pay outstanding bills.
b. Grounds for termination of service.
c. The steps the Grantee must take before terminating service.
d. How the customer can resolve billing disputes.
e. The steps necessary to have service reconnected after involuntary termination.
f. The fact that customer service personnel must identify themselves immediately.
g. The fact that Subscribers have the right to speak with a supervisor, and if none is available, a supervisor shall return the Subscriber's call within one (1) working day.
h. The appropriate regulatory authority with which to register a complaint and how to contact that authority.

In addition, at least once each calendar year, Grantee shall notify each Subscriber that information is available upon request concerning items (a) through (h) above.

2. **Written Notices.** Written notice of all terms of the customer agreement, the name, address and telephone number of the Cable Operator, all equipment and fee options, the availability of "A/B" switches, the availability of parental control devices, any reduced rates for seniors or other Subscribers, company billing and credit practices, company practices with respect to privacy of Subscribers, the telephone numbers for customer complaints, the telephone number of the Grantor, and other relevant information, shall be made by Grantee to Subscribers before service is commenced, at least once each calendar year, at any time upon the request of the Subscriber, and whenever changes to such policies are made.

3. **Advance Notice of Changes.** Except as otherwise provided by applicable law, advance notice of increases in fees or charges, and changes in channel lineup of stations or services, shall be sent to Grantor and to Subscribers at least thirty (30) days before the changes are made, except for changes not known sufficiently in advance by Grantee and not under Grantee's control, or where Grantor's waiver is obtained. Notices must be clearly identified and in print large enough to be easily readable.

4. **Billing.**

a. **Billing Frequency and Format.** Bills for service shall be rendered monthly, unless otherwise authorized by the Subscriber and the Grantee or unless service is rendered for a period less than one (1) month. All bills shall contain a telephone number and a mailing address for billing inquiries or disputes and shall clearly delineate all charges and the basis for those charges.

b. **Disputed Bills.** In the event of a dispute between a Subscriber and the Grantee regarding the bill, the Grantee shall promptly make such investigation as is required by the particular case and report the results to the Subscriber. If the dispute is not resolved to the satisfaction of both parties, the Grantee shall inform the Subscriber of the Grantee's complaint procedures. If the Subscriber wishes to obtain the benefits of this subparagraph, notification of the disputed bill must be given by the Subscriber to the Grantee in writing within thirty (30) days after the bill date.

The Subscriber shall not be required to pay the disputed portion of the bill until the earlier of the following:

(i) Resolution of the dispute; or

(ii) Expiration of the forty-five (45) day period beginning on the date of the Subscriber's written notification.

Pending resolution of the bill dispute, Grantee shall exercise reasonable care to ensure that no termination notices are issued for the disputed portions of the bill, and that no other collection procedures are initiated for the disputed amount. Any such activity may be interpreted as an attempt to avoid the provisions of these rules and may constitute a violation of these rules.

c. **Referral of Accounts to Collection Agencies.** Uncollected accounts may be referred to private collection agencies for appropriate action if the bill has not been paid by the earlier of (i) thirty (30) days following date of involuntary termination; or (ii) the sixty--first (61st) day following the mailing date of the original uncollected amount, provided that no notification of a billing dispute has been made.

If the account was voluntarily terminated by Subscriber, for any reason, the account may not be referred to a private collection agency until at least thirty (30) days following mailing of the final bill. If notification of a billing dispute is made, all collection procedures shall be delayed as required in subsection 4(b) entitled "Disputed Bills." Referral to collection agent shall then occur no sooner than the ninety-first (91st) day following the billing date of the original uncollected amount.

d. **Termination for Non-Payment.** Bills shall not be delinquent earlier than twenty-seven (27) days from the date of the bill, which must be mailed to Subscribers within five (5) working days prior to the stated due date. Subscribers must be notified in writing of a proposed disconnection for non-payment at least fifteen (15) days prior to disconnection.

5. **Refund.** When a Subscriber voluntarily discontinues service, Grantee shall refund, within 20 days of the discontinuance of service, the unused portion of any advance payments after deducting any charges currently due through the date of such discontinuance. Unused payment portions shall be the percentage of time for which Subscriber has paid for service and will not receive it because of the Subscriber's discontinuation of service. (Ord. 5004, 1997.)

5.62.090 Violations.

A. **USE OF PUBLIC STREETS.** From and after the effective date of this Chapter, it shall be unlawful for any person to construct, install, or maintain in any public place within Grantor's territory, or upon any easement owned or controlled by a public utility, or within any other public property of Grantor, or within any privately-owned area within Grantor's jurisdiction which is not yet, but is designated as, a proposed public place on a tentative subdivision map approved by Grantor, any equipment, facilities, or System for distributing signals or services through a Cable Television System, unless a Franchise has first been obtained hereunder, and is in full force and effect.

B. **UNAUTHORIZED CONNECTIONS.** It shall be unlawful for any person to make or use any unauthorized connection to, or to monitor, tap, receive or send any signal or service via a franchised System, or to enable anyone to receive or use any service, television or radio signal, picture, program, or sound, or any other signal without payment to the owner of said System.

C. **TAMPERING WITH FACILITIES.** It shall be unlawful, without the consent of the owner, to willfully attach to, tamper with, modify, remove or injure any physical part of or signals on a franchised Cable Television System. (Ord. 5004, 1997.)

5.62.100 Termination and Forfeiture.

A. **REVOCATION.** Consistent with applicable law, and in addition to any rights set out elsewhere in this Chapter, the Grantor reserves the right to revoke a Franchise, subject to the procedural guidelines set forth in Section 5.62.130 hereof in the event that:

1. The Grantee willfully or negligently violates any material provision of its Franchise.
2. The Grantee's construction schedule as set forth in this Franchise, is materially delayed, and such delay is within the control of Grantee.

B. **FORFEITURE.** Upon failure of the Grantee to comply with any material term of its Franchise, the Grantor may, subject to the procedural guidelines set forth in Section 5.62.130 hereof, declare a forfeiture. The Grantee may be required to remove its structures or property from the Grantor's streets and to restore those streets to their prior condition within a reasonable period of time. Upon failure to do so, the Grantor may perform the work and collect all costs, including direct and indirect costs, from the Grantee. At Grantor's discretion, the cost thereof may be placed as a lien upon all plant, property, or other assets of the Grantee. (Ord. 5004, 1997.)

5.62.110 Franchise Applications.

Applicants for a Franchise may submit to the Grantor, or to designated representative, written application in a format provided by the Grantor, at the time and place specified by the Grantor for accepting applications (including applications to renew a franchise) and accompanied by the designated application fee. A non-refundable application fee, in an amount established by resolution of the Grantor, shall accompany the application or re-application to cover all costs associated with processing the application, including without limitation, costs of administrative review, financial, legal and technical evaluation of the applicant, the costs of consultants (including technical and legal experts), notice and publication requirements, and document preparation expenses.

In the event such costs exceed the application fee, the applicant shall pay the difference to Grantor within twenty (20) days following receipt of an itemized statement of such costs. In the event such costs are less than the applicable fee, the Grantor shall pay the difference to the applicant within twenty (20) days of the determination of costs. This provision is procedural and shall not constitute the grant of any right to the Grantee. (Ord. 5004, 1997.)

5.62.120 Records, Reports; Right to Inspect and Audit.

A. **GRANTEE TO PROVIDE RECORDS.** All reports and records required under this Section shall be furnished at the sole expense of Grantee.

B. **RECORDS.** Grantor must maintain in its local offices, and make available for inspection during normal business hours, a separate and complete set of business records for the Franchise. The Grantee shall provide that information in such form as may be required by the Grantor, as well as copies of any records of Grantee upon Grantor's request, so long as said information is reasonably related to the scope of Grantor's rights under this Chapter, the Franchise, or Grantor's regulatory functions.

C. **MAINTENANCE AND INSPECTION OF RECORDS.** Grantee shall keep true and accurate books and records in conformity with generally accepted accounting principles, consistently applied, showing all income, expenses, borrowing, payments, investments of capital, and all other transactions relating to the System. Grantor shall, upon reasonable notice, have the right to inspect said records and receive copies thereof to the extent said information is reasonably related to the scope of the Grantor's rights under this Chapter, the Franchise, or the Grantor's regulatory functions. Any Grantee records kept at another place shall, within ten (10) days of Grantor's request, be made available at Grantee's local premises within the County of Santa Barbara.

D. **REPORTS OF FINANCIAL AND OPERATING ACTIVITY.**

1. Annual Reports. No later than ninety (90) days after the close of Grantee's fiscal year, Grantee shall submit an audited written report to the Grantor which shall include:

a. **Financial Report.** A financial report, audited and certified by a financial officer of Grantee, for all Cable System activity during the previous fiscal year, including Gross Receipts from all sources and gross subscriber revenues from each Service. The report must set out separately all Gross Receipts from all sources in the City and Gross Subscriber Revenues from each Service in the City, and all payments, deductions, and computations of franchise fees.

b. **Previous Year's Activity.** A summary of the previous year's activities, including, but not limited to, subscriber totals and new services.

c. **List of Officers and Directors.** A current list of Grantee's officers, directors, and other principals which reflects any change in the previous year's list.

d. **Shareholders List.** A list of stockholders or other equity investors holding twenty percent (20%) or more of the voting interests in Grantee which reflects any change from the previous year's list.

e. **Complaint Summary.** A summary of complaints received and remedial actions taken.

f. **Rate Schedule.** A current rate schedule for the various services offered by Grantee.

2. **Performance Tests and Compliance Reports.** No later than April 15 of each year, the Grantee shall provide a written report of any FCC or other performance tests required or conducted. In addition, the Grantee shall provide reports of the test and compliance procedures required by its Franchise, or by this Chapter, no later than thirty (30) days after the completion of those tests and compliance procedures.

3. **Additional Reports.** The Grantee shall prepare and furnish to the Grantor in writing, at the times and in the form reasonably prescribed by Grantor, such additional reports as may reasonably be required with respect to Grantee's compliance with the provisions of its Franchise and this Chapter.

E. **COMMUNICATIONS WITH REGULATORY AGENCIES.** Copies of all non-routine or material communications between the Grantee and the Federal Communications Commission, or any other agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to the Franchise, shall be submitted promptly to the Grantor upon receipt or mailing by Grantee.

F. **EXAMINATION OF FACILITIES.** Upon reasonable notice, and during normal business hours, Grantee shall permit examination, by any duly authorized representative of Grantor, of all Franchise property and facilities, together with any appurtenant property and facilities of Grantee situated within the City.

G. **RIGHT TO AUDIT.**

1. **Frequency of Audits.** In addition to any other inspection rights under this Chapter or the Franchise, upon ten (10) days prior written notice, during the term of a franchise and for a period of five (5) years thereafter, Grantor shall have the right to inspect, examine, or audit, during normal business hours, all documents pertaining to the Grantee or any Affiliated Person which are reasonably necessary to the Grantor's enforcement of its rights under the terms of this Chapter or the Franchise. All such documents shall be made available at the local office of the Grantee. All such documents pertaining to financial matters which may be the subject of an audit by the Grantor as set forth herein shall be retained by the Grantee for a minimum of five (5) years following the termination of the Franchise. Access by the Grantor to any of the documents covered by this paragraph G shall not be denied by the Grantee on grounds that such documents are alleged by the Grantee to contain proprietary information.

2. **Written Certifications.** Grantor may require written certification by the Grantee's directors, officers, or other employees with respect to all documents referred to in this subsection G.

3. **Costs of Audit.** Any audit conducted by the Grantor pursuant to this subsection G shall be conducted at the sole expense of the Grantor, and the Grantor shall prepare a written report containing its findings, a copy of which shall be mailed to the Grantee; provided, however, that the Grantee shall reimburse the Grantor for the expense of any such audit if, as the result of said audit, it is determined that there is a shortfall of more than two percent (2%) in the amount of franchise fees or other payments which have been made or will be made by the Grantee to the Grantor pursuant to the terms of the Franchise. Such reimbursement shall occur within thirty (30) days of Grantee's receipt of a written notice of a determination that a shortfall of greater than two percent (2%) exists.

H. **RETENTION OF EXPERTS.** In the exercise of its rights under this Chapter, the Grantor shall have the further right to retain technical experts and other consultants on a periodic basis for the purpose of monitoring, testing, and inspecting any construction, operation, or maintenance of the System, and all parts thereof, or to ensure compliance with and enforcement of the provisions of this Chapter and the Franchise. The Grantor shall bear the cost of retaining such experts, provided that the Grantee shall reimburse the Grantor for all expenses related to the retention of said experts where this Chapter or the Franchise so provide, or under either of the following circumstances:

1. The Grantee has initiated proceedings which would normally require the Grantor to retain such experts, such as the filing of a request for approval of a transfer or change in control, renewal to the extent allowed by law, expansion of the Franchise or Service Area, or the modification or amendment of the Franchise;

2. The reports of such experts submitted to the Grantor reveal that the Grantee has failed to substantially comply with the terms and conditions of this Chapter or of the Franchise.

If Grantee is required to reimburse Grantor pursuant to this subsection H, Grantor shall send Grantee an itemized description of such charges, and Grantee shall pay such amount within twenty (20) days after the receipt of such description. (Ord. 5004, 1997.)

5.62.130 Enforcement Mechanisms.

A. **NOTICE AND HEARING FOR FRANCHISE DEFAULT.**

1. **Written Demand for Corrections.** Except as otherwise provided in this Chapter or in the Franchise, prior to formal consideration by Grantor of termination, revocation, or forfeiture of Grantee's Franchise, or any other penalty or administrative remedy available to the Grantor, including liquidated damages, attributable to Grantee's failure, willful, negligent, or otherwise, to adhere to the terms and conditions of the Franchise or this Chapter, Grantor shall make written demand on Grantee to correct the alleged default. Grantor and Grantee shall expeditiously meet to discuss the alleged default, at which time Grantee shall indicate, in writing, the amount of time necessary to resolve the alleged problem. Giving due consideration to Grantee's request, Grantor shall, in writing, state the amount of time Grantor will allow Grantee to resolve the problem. During this time period, but in no event less than ten (10) days before the final date for correction, Grantee may request additional time to correct the problem, and Grantor shall grant said request if Grantor determines, in the exercise of its discretion, that such time is necessary due to delays beyond Grantee's control. If the default continues for a period of ten (10) days following the deadline for corrections, plus any extension thereof, a hearing shall be scheduled by Grantor on such Franchise termination, revocation, forfeiture, or any other penalty or administrative remedy.

2. **Notice of Correction Hearing.** The Administrative Officer shall provide written notice of such hearing, including the grounds for the proposed action, to the Grantee no less than thirty (30) days before the hearing on the matter. In addition, the Administrative Officer, as part of said written notification, shall state the procedures to be followed by the Grantor to determine whether cause for termination, revocation, forfeiture, or other penalty exists. At a minimum, said procedures shall afford the Grantee adequate notice and a fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to question witnesses, and to obtain a transcript of the proceeding at Grantee's expense. Within ten (10) days after the receipt of said notice, Grantee shall file any written objections to said procedures. The Administrative Officer shall notify Grantee of any modification to the procedures and provide another ten (10) day objection period. Any objections not raised within said ten (10) day periods shall be deemed waived. At the hearing, Grantor (or an appropriate hearing board or commission designated for that purpose by Grantor) shall hear Grantee, and any person interested in the matter, and shall determine, at that or subsequent meetings, an appropriate course of action for enforcement or termination of Grantee's Franchise.

B. **DELEGATION OF ENFORCEMENT MECHANISMS.** Such liquidated damages as Grantor may assess against Grantee which do not include loss of the Franchise may, at Grantor's option, be determined by an officer or agency of the Grantor to which it may delegate such administrative decisions, subject to due process and the criteria contained in this Chapter and the Franchise, and subject to appeal to the City Council. (Ord. 5004, 1997.)

5.62.140 Areawide Interconnection of CATV Systems.

The Grantee shall endeavor to interconnect access channels of the cable system with any or all other CATV systems in contiguous areas, upon the request of the City. Interconnection of systems may be done by direct cable connection, microwave link, satellite, or other appropriate method. Upon receiving the request of the City to interconnect, the Grantee shall immediately initiate negotiations with the other affected system or systems in order that all costs may be shared equally among cable operators for both construction and the operation of the interconnection link. The Grantee may be granted reasonable extensions of time to interconnect or the City may rescind its order to interconnect upon petition by the Grantee to the City. The City shall grant said request if it finds that the Grantee has negotiated in good faith and has failed to obtain an approval from the system or systems involved with the proposed interconnection, or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates. (Ord. 5004, 1997.)

5.62.150 Miscellaneous Provisions.

A. **CAPTIONS.** The section, subsection, paragraph, and subparagraph numbers and letters, and the captions throughout this Chapter, are intended to facilitate reading and reference. Such numbers, letters, and captions shall not affect the meaning or interpretation of any part of this Chapter.

B. **FRANCHISE REFERENCES.** A Franchise which cites, refers to, or otherwise incorporates this Chapter, or portions thereof, shall be deemed to be a Franchise issued under and subject to this Chapter.

C. **FILINGS.** When not otherwise specified in this Chapter, all documents required to be filed with Grantor shall be filed with the Grantor's representative as designated by Grantor.

D. **NON-ENFORCEMENT BY THE GRANTOR.** A Grantee shall not be relieved of its obligation to comply with all provisions of this Chapter, and of its Franchise, and all laws and regulations, by reason of any failure of the Grantor to demand prompt compliance.

E. **CONTINUITY OF SERVICE.** It is the right of all Subscribers to receive all available services authorized by the Franchise so long as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to rebuild, modify, or sell the System, the Grantee shall use due diligence and reasonable care to ensure that all Subscribers receive continuous, uninterrupted service. In the event of purchase by the Grantor, or a change of Grantee, the current Grantee shall cooperate with the Grantor or new Grantee to operate the Sys-tem for a temporary period, in order to maintain continuity of service to all Subscribers. In the event that Grantee, through its own fault, discontinues system-wide service for seventy-two (72) continuous hours, and Grantee is in material default of its Franchise, or if the Franchise is revoked by Grantor (but not if Grantor fails to renew the Franchise), Grantor may, by resolution, when it deems reasonable cause to exist, assume operation of the System for the purpose of maintaining continuity of service. Grantor's operation of the System may continue until the circumstances which, in the judgment of the Grantor, threaten the continuity of service are resolved to Grantor's satisfaction. Grantor shall be entitled to the revenues for any period during which it operates the System.

F. **OPERATION BY GRANTOR.** During any period when the System is being operated by Grantor pursuant to paragraph E above, Grantor shall attempt to cause as little disruption of operations as is consistent with the maintenance of continuing service to Subscribers. Notwithstanding the foregoing, Grantor shall, as it may deem necessary, make any changes in any aspect of operations that, in Grantor's sole judgment, are required for the preservation of quality of service and its continuity.

G. **MANAGEMENT BY GRANTOR.** Grantor may, upon assuming operation of a System franchised hereunder, appoint a manager to act for it in conducting the System's affairs. Such manager shall have such authority as may be delegated by Grantor and shall be solely responsible to Grantor for management of the System. Grantee shall reimburse Grantor for all its reasonable costs, in excess of System revenues, incurred during Grantor's operation if the Franchise is in full force and effect during the period of Grantor's operation.

H. **NOTICES.** All notices and other communications to Grantee shall be addressed to it at the local address at which Grantee conducts its business. All notices and other communications to Grantor shall be addressed to Santa Barbara City Hall, or such other address as may be designated by Grantor.

I. **FORCE MAJEURE; GRANTEE'S INABILITY TO PERFORM.** In the event Grantee's performance of any of the terms, conditions, obligations, or requirements of this Chapter, or any Franchise granted hereunder, is prevented or impaired due to any cause beyond its reasonable control and not reasonably foreseeable, such inability to perform shall be deemed to be excused, and no penalties or sanctions shall be imposed as a result thereof. Such causes beyond Grantee's reasonable control and not reasonably foreseeable shall include, but not be limited to, any acts of God, civil emergencies, labor unrest, strikes, utility interruptions, inability to obtain gratis access to an individual's property, and any inability of the Grantee to secure all required authorizations or permits to utilize necessary poles or conduits, so long as Grantee uses due diligence to timely obtain said authorization or permits.

J. **APPLICATION.** All of the provisions of this Chapter shall be applicable to all Cable Operators and Cable Systems to the greatest extent permissible under applicable law.

K. **SEVERABILITY.** If any provision of this Chapter is determined to be void or invalid by any administrative or judicial tribunal, said provision shall be deemed severable and such invalidation shall not invalidate the entirety of this Chapter or any other provision thereof. (Ord. 5004, 1997.)

Chapter 5.64

COIN-OPERATED DEVICES AND VENDING MACHINES

Sections:

5.64.010	**Unlawful to Possess or Operate Certain Machines.**	**5.64.100**	**Permit - Age Requirements of Applicants.**
5.64.060	**Permit Required.**	**5.64.110**	**Application - Issuance or Denial - Appeal.**
5.64.070	**Application - Contents.**	**5.64.120**	**Permit - Revocation - Appeal.**
5.64.080	**Application - To be in Writing - Reference to and Investigation by Chief of Police.**	**5.64.130**	**Permit Stickers.**
		5.64.140	**Seizure - Machines - Redemption.**
5.64.090	**Application - List of Machines and Locations.**	**5.64.150**	**Disposition of Unredeemed Machines.**

5.64.010 Unlawful to Possess or Operate Certain Machines.

A. It shall be unlawful for any person to pay any award in cash on the results of the operation of any marble game, pin table, amusement machine or other coin or token-operated device.

B. Nothing in this section shall prohibit the operation of a coin or token-operated game or device designed and manufactured for bona fide amusement purposes which may by application of skill entitle the player to immediate merchandise, replay of the game or device at no additional cost or receive a check, slug, token or ticket which may later be redeemed for merchandise.

C. The value of merchandise made available to players shall not have a wholesale value greater than 15 times the value of play.

D. The number of redemption tickets or points required to obtain merchandise shall be clearly posted.

E. The owner of any establishment where the operation of coin or token-operated games or devices occurs is the responsible party and shall maintain compliance with this section. (Ord. 4833, 1993; Prior Code §15.1.)

5.64.060 Permit Required.

It shall be unlawful for any person to engage in selling, renting, leasing, placing for operation, displaying for public patronage or attempting to sell, rent, lease, place for operation or display for public patronage any coin-operated machine (hereafter "machine"), other than a newsrack as defined in Chapter 5.66 of this Code, at any place in the City, other than placing at his own place of business, without obtaining a permit as provided in this Chapter. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3135 Sec. 2 (part), 1966; prior Code Sec. 15.6).

5.64.070 Application - Contents.

The application for the permit required by Section 5.64.060 shall contain the following information:

(1) The name and address of the applicant.

(2) The name and address of the individual applicant, his age, date and place of birth, and the same information for the manager and principal owner of firm, corporation and association applicants.

(3) Prior convictions of the applicant, their managers and principal owner, if any. (Ord. 3135 §2(part), 1966; prior Code §15.7.)

5.64.080 Application - To be in Writing - Reference to and Investigation by Chief of Police.

The application for a permit required by this chapter shall be in writing and shall be referred to the Chief of Police.

The Chief of Police shall ascertain if the applicant is of good moral character, and either approve or disapprove the application. (Ord. 3135 §2(part), 1966; prior Code §15.8.)

5.64.090 Application - List of Machines and Locations.

The permittee shall furnish a list of all machines and their locations where used, sold, leased, rented or placed and shall keep the list up to date quarterly. (Ord. 3135 §2(part), 1966; prior Code §15.9.)

5.64.100 Permit - Age Requirements of Applicants.

No permit required by this chapter shall be issued to any applicant, unless he shall be over twenty--one (21) years of age. (Ord. 3135 §2(part), 1966; prior Code §15.10.)

5.64.110 Application - Issuance or Denial - Appeal.

No permit required by this chapter shall be issued to any applicant unless the approval of the Chief of Police is obtained. If the Chief of Police approves the application, the Tax and Permit Inspector shall issue a permit provided that all applicable permit fees have been paid. In case of refusal to issue a permit, the applicant may appeal to the City Council within ten (10) days after written notice of denial is deposited in the mail. The Council shall hear the matter after notice to the Tax and Permit Inspector and the applicant and the decision of the Council shall be final. (Ord. 3135 §2(part), 1966; prior Code §15.11.)

5.64.120 Permit - Revocation - Appeal.

(a) Every permit granted under the provisions of this chapter is subject to the right of revocation, which is hereby expressly reserved, for any of the following:

(1) A material misrepresentation or omission in the application;

(2) Use of any machine contrary to this chapter, any ordinances of the City, or any of the laws of the State of the United States;

(3) Conviction of the permittee, its manager or principal owner of a felony;

(4) Failure to repair or service a machine or device within a reasonable time.

(b) Revocation may be made by the Tax and Permit Inspector upon a full investigation and a written statement to the permittee of the reasons therefor, and appeals from a revocation may be made to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3135 §2(part), 1966; prior Code §15.12.)

5.64.130 Permit Stickers.

Each permittee shall place in a conspicuous manner upon every machine under his control a sticker furnished by the Tax and Permit Inspector, which sticker shall indicate that applicable permit fees have been paid. (Ord. 3135 §2(part), 1966; prior Code §15.13.)

5.64.140 Seizure - Machines - Redemption.

If any of the coin-operated machines, devices or games be maintained in any commercial or public place in the City without having a sticker as required by Section 5.64.130 displayed, they shall be subject to seizure by any member of the Police Department or by the Chief Tax and Permit Inspector, which machines shall be redeemable only by the true owner, within a period of not exceeding sixty (60) days, upon the payment of a reasonable charge for the safe keeping of the machines or games, together with all applicable permit fees plus any penalties which may be applicable. (Ord. 3135 §2(part), 1966; prior Code §15.14.)

5.64.150 Disposition of Unredeemed Machines.

If the true owner cannot be found after reasonable inquiry, or if the owner fails to redeem, then the machine may be confiscated and sold by the Tax and Permit Inspector at the end of the sixty (60) day period, after notice by registered mail to the last known address, if any, of the owner, and the sole proceeds shall go to the General Fund of the City. (Ord. 3135 §2(part), 1966; prior Code §15.15.)

Chapter 5.66

NEWSRACKS

Sections:

5.66.010	**Purpose.**	**5.66.070**	**Costs.**
5.66.020	**Definitions.**	**5.66.080**	**Existing Newsracks.**
5.66.030	**Prohibitions.**	**5.66.090**	**Abandoned Newsracks.**
5.66.040	**Registration.**	**5.66.100**	**Removal and Storage of Newsracks.**
5.66.050	**General Restrictions on Placement and Appearance.**	**5.66.110**	**Display of Material Harmful to Minors.**
5.66.060	**Special Restrictions on Newsracks in the Downtown Plaza and Beachfront Area.**		

5.66.010 Purpose.

The purpose of this Chapter is to establish a comprehensive set of regulations applicable to newsracks located within the public right of way and on other public property. There are a number of important public purposes served by regulation of newsracks. First, newsrack regulation is intended to improve public safety. Since newsracks are usually located within the public right of way, they pose a potential hazard to pedestrians and other users of public sidewalks. If they are located too close to driveways or intersections, they can block the view of oncoming traffic. If they are located too close to the curb, they can unreasonably hinder ingress and egress from parked vehicles. If located too close to fire hydrants, mailboxes, traffic control devices, public bus benches and other public conveniences, they can unreasonably hinder access to and use of those facilities.

A second purpose of the Chapter is to protect the appearance of Santa Barbara, which has a long tradition of regulating the appearance of structures and other improvements through review by the Architectural Board of Review, Landmarks Committee, Sign Committee and other public boards and commissions. The City Council finds that the number, size, construction, placement and appearance of newsracks can have a significantly adverse visual impact on the City, particularly in a designated Landmarks District like El Pueblo Viejo and other aesthetically sensitive areas.

A third purpose of this Chapter is to promote and enhance the economic vitality of the community by avoiding any undue interference with commerce and business which may be posed by newsracks located too close to retail shop windows or entrances to commercial property, or located in such a way as to interfere with views from private property.

It is not the intent of this Chapter to in any way discriminate against, regulate or interfere with the publication, circulation, distribution or dissemination of material protected by the First Amendment on the basis of the content of that material. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 4077, 1980; Ord. 3381 § 1, 1969).

5.66.020 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. BEACHFRONT AREA. Cabrillo Boulevard/Shoreline Drive between the easterly end of Shoreline Park and the intersection of Cabrillo Boulevard and Channel Drive.

B. DISTRIBUTOR. The person responsible for placing or maintaining a newsrack in a right of way.

C. DOWNTOWN PLAZA. State Street between its intersection with Gutierrez and Victoria Streets, those portions of Haley, Cota, Ortega, De la Guerra, Canon Perdido, Carrillo, Figueroa and Anapamu Streets within two hundred (200) feet of State Street, and all publicly owned or controlled paseos or walks which connect with State Street between Gutierrez and Victoria Streets.

D. LANDMARKS DISTRICT. A district established pursuant to Chapter 22.22 of the Code.

E. NEWSRACK. Any self-service or coin-operated box, container, storage unit or other dispenser, installed, used or maintained for the display, distribution or sale of any written or printed material, including but not limited to, newspapers, news periodicals, magazines, books, pictures, photographs, advertising circulars, and records (hereinafter collectively referred to as "newsrack material").

F. PARKWAY. The area between the sidewalk and the curb of a street and, where there is no sidewalk, the area between the edge of the roadway and the nearest right of way boundary line and any area within a roadway not used for vehicular traffic.

G. RIGHT OF WAY. Any property under the ownership and control of the City and used for public street and related purposes.

H. ROADWAY. The portion of a right of way designed and used for vehicular traffic. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 4077, 1980; Ord. 3381 § 1, 1969.)

5.66.030 Prohibitions.

A. FAILURE TO REGISTER. It is unlawful for any person to install, place or maintain a newsrack within a right of way unless the newsrack has been registered with the Public Works Director pursuant to this Chapter, a registration sticker has been issued for that newsrack at that location, and the sticker has been affixed to the newsrack in the manner specified by the Director.

B. UNLAWFUL PLACEMENT. It is unlawful for any person to install, place or maintain a newsrack in violation of any of the provisions of this Chapter. (Ord. 4536, 1988.)

5.66.040 Registration.

A. GENERAL. A newsrack shall be registered pursuant to the procedures set forth in this Section.

B. APPLICATION. A written application to register a newsrack shall be filed with the Public Works Director and shall include at least the following information:

1. The name, address and telephone number of the registrant, who may be either the publisher of the newsrack material or the distributor.
2. The name, address and telephone of a representative of the registrant or other responsible person to receive notices regarding the newsrack.
3. The proposed location of the newsrack, including a drawing of the sidewalk, streets, and other adjacent improvements, including (i) the nearest buildings and driveways, (ii) the nearest bus stops and benches and fire hydrants, and (iii) each existing newsrack (including the name of the newsrack material contained therein and the type or brand of newsrack) within one hundred (100) feet of the proposed location. The drawing shall show distances between the newsrack and the other features required to be shown.
4. Type or brand of newsrack, including a photograph of the newsrack and mount.
5. An agreement, in a form acceptable to the City Attorney, under which the City is indemnified as to any claims or damages which may occur because of use, installation or placement of the newsrack.

C. FEE. Each application to register a newsrack shall be accompanied by an application fee as established by resolution of the City Council.

D. REGISTRATION DEADLINE. Any newsrack located within a right of way on the effective date of the ordinance first enacting this Chapter shall be listed on a registration application filed within ninety (90) days of that date. Any newsrack installed or placed within a right of way after the effective date shall be listed on a registration application filed with the Public Works Director prior to installation or placement. within thirty (30) days of its installation or placement. Prior to the relocation of a registered newsrack from one location to a new location within a right of way, a new registration application must be approved by the Public Works Director.

E. ISSUANCE AND DENIAL. Within ten (10) business days of receipt of a complete registration application, and upon finding that (i) the application complies with the provisions of this Chapter, and (ii) the applicant has discharged any debt to the City which may be owed pursuant to this Chapter, the Public Works Director shall register the newsrack and issue to the applicant a sticker evidencing registration which shall promptly be affixed to the newsrack in the manner specified by the Director. If registration is denied, within ten (10) business days of receipt of the application the applicant shall be notified in writing of the specific cause of such denial by the Public Works Director and the right of appeal in accordance with Section 5.66.100. (Ord. 4662, 1990; Ord. 4536, 1988.)

5.66.050 General Restrictions on Placement and Appearance.

A. PLACEMENT. A newsrack may only be installed, placed or maintained at a location which:

1. Does not result in the newsrack projecting onto, into or over any part of a roadway, or resting wholly or in part upon, along, or over any portion of a roadway, or resting on a sidewalk vault, meter cover, manhole or access cover.
2. Is adjacent and parallel to the wall of a building or structure and not more than six (6) inches from the wall, unless the Public Works Director determines that placement near a building is not suitable, and authorizes alternative placement.
3. Will not cause a significant risk of injury to persons or property, will not interfere with the passage of pedestrians or cause any impact on traffic safety by obstructing the views of other vehicles or users of the right of way.
4. Is at least fifteen (15) feet from the curb return of any unmarked crosswalk and five (5) feet from the curb return of any marked crosswalk.
5. Is at least five (5) feet from any fire hydrant, fire call box, police call box or other emergency facility.
6. Is at least five (5) feet from any driveway, traffic signal controller or utility pole.
7. Is at least five (5) feet ahead, and twenty five (25) feet to the rear of any sign marking a designated bus stop.
8. Is at least four (4) feet from any bus bench.
9. Will allow a minimum of four (4) feet for the passage of pedestrians on the adjacent sidewalk subject to the approval of the Transportation Engineer.

10. Is at least one hundred (100) feet from another newsrack containing the same written material, except where the locations are separated by a street or corner, or the owner of the newsrack established to the satisfaction of the Public Works Director that (i) there is insufficient room in one newsrack for the publications which may be sold in one day, or (ii) it publishes more than one edition of the publication for sale at the same time.

11. Does not face another newsrack across the width of a public sidewalk or pedestrian way.

12. If privately owned, has been approved by the owner or person in possession of the property.

13. Will not hinder access to entrances to commercial property or commercial displays such as store windows.

14. If located within a Landmarks District, will not have an adverse impact on access to, or views of, designated landmarks, structures of merit, or structures of interest to tourists.

15. If located in the Beachfront Area, is no more than forty-eight (48) inches in height measured from the sidewalk to the top of the newsrack.

16. If eight or more newsracks are placed at a single location, they shall be grouped in eights and each group shall be separated from the next group by at least thirty six (36) inches.

17. Is not a sidewalk improved with decorative tile or other distinctive surface, except as permitted by the Public Works Director.

The distances specified in this Subsection A may be reduced by the Public Works Director provided the placement of the newsrack is accomplished in a manner consistent with the purposes of this Chapter.

B. APPEARANCE.

1. Voluntary Guidelines. As to any newsrack in place as of the effective date of the 1988 amendments to this Chapter, at any location within a Landmarks District occupied by four or more newsracks, all newsracks should be similar in appearance and, where there are groupings of four newsracks, each grouping should be mounted on a single modular support post. The standards set forth in this paragraph are voluntary, not mandatory.

2. Mandatory Regulations.

a. As to any newsrack installed or placed at any location within a Landmarks District occupied by four or more newsracks after the effective date of the ordinance enacting the 1988 amendments to this Chapter, the newsrack shall be similar in appearance to the predominant style and model of newsrack at that location. If there is no predominant style or model of newsrack at that location, the newsrack shall be a model approved for that location by the Public Works Director.

b. Each newsrack shall be maintained in a clean and neat condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

(1) It is free of dirt and grease.

(2) It is free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.

(3) It is free of rust and corrosion in the visible unpainted metal areas thereon.

(4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and free of cracks, dents, blemishes and discoloration.

(5) The paper or cardboard parts or inserts thereof are free of tears, peeling or fading.

(6) The structural parts thereof are not broken or misshapen.

c. Any newsrack installed, placed or replaced after the effective date of the first amendments to this Chapter adopted in 1990 shall comply with the following appearance standards:

(1) All opaque surfaces shall be painted a woodgrain brown tone, or a substantially similar color approved by the Public Works Director.

(2) The mount shall be painted gloss black.

d. A newsrack installed or placed at any location within a Landmarks District shall carry no advertising except the name of the newspaper or periodical being dispensed on the bottom one third (1/3) of the plastic hood or, if there is no plastic hood on the newsrack, the name shown at not more than two locations on the newsrack.

C. IDENTIFICATION INFORMATION. The name, address and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be displayed on the hood of the newsrack (or, if there is no hood, on the top of the newsrack) in such a manner as to be readily visible to and readable by a prospective customer.

D. MODE OF ATTACHMENT AND REMOVAL. Newsracks shall be attached to or removed from the sidewalk or other improvement in accordance with specifications provided by the Public Works Director. (Ord. 4662, 1990; Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3381 § 1, 1969.)

5.66.060 Special Requirements for Newsracks in the Downtown Plaza and the Beachfront Area.

A. PURPOSE. The City has undertaken a program of reconstruction of the Downtown Plaza. There have been provided at convenient locations within the Downtown Plaza certain concrete, decorative structures and receptacles designed to contain one or more newsracks ("newsrack enclosures"). It is the purpose of the City Council to strictly regulate the location of newsracks in the Downtown Plaza so as to fairly and equitable distribute the available newsrack spaces among the distributors of newsrack materials regularly distributed in the City.

The City is also contemplating installation of newsrack enclosures in the Beachfront Area for the purpose of protecting and enhancing the aesthetics of this heavily tourist oriented area of the City. Once those structures are in place, it is the intent of the City Council that similar regulations regarding the placement of newsracks in the Beachfront Area shall be in effect.

B. PROHIBITION. No person shall place or maintain a newsrack in the Downtown Plaza except in one of the City-built newsrack enclosures. No person shall place or maintain a newsrack in the Beachfront Area except in one of the City-built newsrack enclosures, provided the City has constructed such enclosures and made them available for newsrack use.

C. ALLOCATION OF ENCLOSURES. The Public Works Director shall allocate the newsrack enclosures spaces available in the Downtown Plaza to the distributors of the newsrack materials regularly distributed in the City. Each distributor of newsrack material shall be assigned a number of spaces in the Downtown Plaza which, as a percentage of all Downtown Plaza newsrack enclosure spaces, corresponds to that distributor's percentage of all registered newsracks located within the corporate limits of the City as of the preceding January 1. Upon construction of newsrack enclosures in the Beachfront Area, the Public Works Director shall undertake a like allocation process.

D. ASSIGNMENT OF SPECIFIC LOCATIONS. The Public Works Director shall make assignments of newsracks for specific locations pursuant to the allocation of spaces provided for in Subsection C, giving due consideration to the location preferences of the newsrack material distributors. If an assigned space remains vacant for two weeks following the making of such an assignment, the Public Works Director shall consider that space to be available for reallocation and reassignment. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3381 § 1, 1969.)

5.66.070 Costs.

The costs of installation, maintenance, replacement, removal and relocation of newsracks shall be at the sole expense of the owner or registrant. Upon removal of a newsrack, the owner or registrant shall, at his or her sole expense, cause the public right of way and any improvements thereon to be promptly repaired to a condition which would have existed had the newsrack not be placed at that location. If those repairs are not timely made, the City may undertake that repair work and collect from the owner or registrant the costs thereof, including reasonable attorneys fees and related costs of collection. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3381 § 1, 1969.)

5.66.080 Existing Newsracks.

Any person owning or entitled to possession of any newsrack located within the City as of the effective date of the ordinance enacting the 1988 amendments to this Chapter shall, within ninety (90) days thereafter register the newsrack in the manner provided in this Chapter and shall from the date of registration be subject to the provisions of this Chapter. If any such newsrack is not registered within the time limit specified in this Section, the City may attach a Notice to Correct to the newsrack informing the owner or person entitled to possession of the registration requirement, and if the newsrack is not registered within ten (10) days of affixing the Notice to Correct, the newsrack may be removed and stored pursuant to Section 5.66.100. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3381 § 1, 1969)

5.66.090 Abandoned Newsracks.

If a newsrack is unused for a period of more than fourteen (14) consecutive days, it shall be considered abandoned and the Public Works Director may thereupon give notice to the registrant to remove the newsrack. If the newsrack is not removed or again placed in use as a newsrack within fourteen (14) days of the notice, the Public Works Director may remove and store the newsrack pursuant to Section 5.66.100. (Ord. 4536, 1988.)

5.66.100 Removal and Storage of Newsracks.

A. GENERAL. Upon determination by the Public Works Director that a newsrack has been installed, used or maintained in violation of this Chapter, a Notice to Correct shall be issued which shall specify the manner in which this Chapter is violated and request compliance. The order shall be telephoned to the distributor and confirmed by mailing a copy of the Notice by certified mail, return receipt requested. A hearing with regard to the Notice to Correct may be requested. Failure to either properly correct the
offending condition or request a hearing on the Notice within ten (10) days (excluding Saturdays, Sundays and legal holidays) after the mailing date of the Notice shall result in removal and storage of the newsrack by the Public Works Director at any time after expiration of the ten (10) day period.

B. HEARING. If a hearing is requested, it shall be provided within ten (10) days of the request and shall be conducted by the City Administrator or his designee. The appellant shall be given at least five (5) days notice of the time and place of the hearing and shall be entitled to present evidence showing that the newsrack was not installed, used or maintained in violation of this Chapter. The hearing shall be conducted in a manner designed to ascertain the facts without an undue consumption of time or resources. Formal rules of evidence shall not be followed, nor shall any party have the right to require that witnesses be sworn or subject to cross examination. The City Administrator or his designee shall either affirm, vacate or modify the Order to Correct upon completion of the hearing. The Order to Correct shall be stayed pending completion of the hearing and rendering of a decision. If the Order to Correct is not vacated, the distributor shall comply with the Order within three (3) days of the decisions; failure to comply shall result in removal and storage of the newsrack by the Public Works Director.

C. STORAGE; COSTS. The costs of removal and storage of any newsrack shall be borne by the owner thereof and may be collected by the City in the same manner as it collects any other civil debt or obligation. No newsrack which has been removed and stored by the City shall be released to the owner unless the costs of removal, storage and any necessary repair to the premises on which the newsrack was placed have been paid. If a newsrack which has been removed and stored remains unclaimed for a period of sixty (60) days, it shall be deemed to be unclaimed personal property and disposed of in accordance with law.

D. REMEDY CUMULATIVE. The remedy of removal and storage of a newsrack may be exercised in additional to the criminal and civil remedies specified in Title 1 of this Code. (Ord. 4536, 1988)

5.66.110 Display of Material Harmful to Minors.

No material which is harmful to minors, as defined in Section 313 of the Penal Code of the State, shall be displayed in a public place, other than a public place from which minors are excluded, unless blinder racks are placed in front of the material so that the lower two-thirds (2/3) of the material is not exposed to view. (Ord. 4838, 1993).

Chapter 5.68

POOL AND BILLIARD ROOMS

Sections:

5.68.005 Poolroom and Billiard Room Defined.
5.68.010 Minors - When Permitted.
5.68.020 Application for Permission to Have Minors as Patrons - Information - Fee.
5.68.030 Application - Investigation - Permit Granting - Renewal - Denial.
5.68.050 Minors Prohibited - Exceptions.
5.68.060 Grounds for Suspension, Revocation - Hearing.
5.68.070 Penalty for False Identification to Gain Entry.

5.68.005 Poolroom and Billiard Room Defined.

As used in this chapter, a "public poolroom or billiard room" shall mean any business establishment whose principal business is to provide pool, billiard or similar tables and accessory equipment for use by the public upon payment of a fee. (Ord. 3809, 1975.)

5.68.010 Minors - When Permitted.

It is unlawful for any person under the age of 18 years to enter or visit a public poolroom or billiard room in the City unless accompanied by an adult. (Ord. 4145, 1982; Ord. 3621 §1, 1974.)

5.68.020 Application for Permission to Have Minors as Patrons - Information - Fee.

The owner or operator of a poolroom or billiard room desiring the patronage of minors shall apply in writing to the Board of Fire and Police Commissioners of the City for permission to allow minors in such pool or billiard room. Such application shall show the name of the person, firm or corporation desiring to conduct, manage or carry on such place of business, the place where the same is to be located, and a general statement describing the proposed mode of operation of such establishment. Such application shall also show whether or not alcoholic beverages are sold or dispensed on the premises, or whether or not an application for the sale of alcoholic beverages will be made to the Department of Alcoholic Beverage Control of the State in connection with such premises. Such application shall be accompanied by a fee of twenty--five dollars ($25.00) to cover the cost of investigation of such application. (Ord. 3024 §2(part), 1965; prior Code §32.29(a).)

5.68.030 Application - Investigation - Permit Granting - Renewal - Denial.

Upon receipt of such application, the Board of Fire and Police Commissioners shall cause an investigation to be made of such applicant or applicants as to his or their moral character and whether he or they have been convicted of crimes involving violence against persons, violation of public decency and morals, or violation of public health and safety, together with an investigation of the proposed location of such poolroom or billiard room, and any other matters or things pertinent to such application and permit. Upon the completion of such investigation, the Board of Fire and Police Commissioners shall make a finding and determination as to whether the granting of such application will or will not be detrimental to the public health, safety and welfare of the people of the City. Upon the basis of such finding and determination, a permit may be denied or granted with conditions set by the Fire and Police Commission, provided that such permit, if granted, shall be for a period of six (6) months, and at the expiration of such six (6) month period, the Board of Fire and Police Commissioners shall cause an examination of the premises and establishment to be made. As a result of such investigation such permit shall be renewed for successive six (6) month periods, so long as it is not determined that renewal is or will be detrimental to the public health, safety and welfare of the people of the City of Santa Barbara. (Ord. 4145, 1982; Ord. 3621 §1, 1974.)

5.68.050 Minors Prohibited - Exceptions.

It shall be unlawful for any person who keeps or conducts a public pool or billiard room, or any permittee under Sections 5.68.010-5.68.030, whether as proprietor, lessee, agent or clerk, to permit any minor to enter, visit, attend or patronize such pool or billiard room except under the conditions set forth in Section 5.68.040. (Ord. 3024 §4(part), 1965; prior Code §32.30(a).)

5.68.060 Grounds for Suspension, Revocation - Hearing.

Any permit issued pursuant to Sections 5.68.010-5.68.030 may be suspended or revoked by the Board of Fire and Police Commissioners when, upon a hearing before the Board, held after at least five (5) days written notice to the permittee, it appears:

(1) That such permittee has been convicted of any misdemeanor described in Sections 5.68.010 --5.68.030 or 5.68.050; or

(2) If it be found and determined by the Board upon such hearing that any minors have been permitted or suffered to enter, visit, attend, remain in or patronize any such permitted pool or billiard room contrary to the provisions of Section 5.68.040. (Ord. 3024 §4(part), 1965; prior Code §32.30(b).)

5.68.070 Penalty for False Identification to Gain Entry.

It shall be unlawful for any person to gain admission to a public pool or billiard room by presenting to the owner, proprietor, or any of their employees, a forged or spurious written authorization which may be required to be presented under any provision of Section 5.68.040, and any such violation shall be punish-able by a fine of not to exceed one hundred dollars ($100.00) or by imprisonment of not more than ten (10) days. (Ord. 3024 §5, 1965; prior Code §32.301.)

Chapter 5.72

CIRCUSES AND CARNIVALS

Sections:

5.72.010	**Permit Required.**	**5.72.070**	**Time of Permit.**
5.72.020	**Application.**	**5.72.080**	**Revocation.**
5.72.030	**Application Fee.**	**5.72.090**	**Appeal.**
5.72.040	**Investigation.**	**5.72.100**	**Applicant.**
5.72.050	**Permit Approval.**	**5.72.110**	**Exemption.**
5.72.060	**Permit Issuance.**	**5.72.120**	**Application Date.**

5.72.010 Permit Required.

Except as provided in Section 5.72.110, no person shall conduct, manage or carry on a circus or carnival in the City of Santa Barbara without first obtaining a permit as provided in this chapter. (Ord. 3259 §1(part), 1967.)

5.72.020 Application.

Applicants for a permit under this chapter shall file with the Tax and Permit Inspector a sworn application in writing which shall contain the following information:

(1) Name and description of the applicant;
(2) Permanent home address and local address;
(3) The time and location of the proposed circus or carnival;
(4) A description of the number and types of attractions to be operated;
(5) A list of other areas where applicant has conducted a circus or carnival within the past two (2) years;
(6) A statement as to whether or not the applicant has been convicted of any crime exclusive of traffic violation, the nature of the offense and the punishment or penalty assessed. If the owner of the circus or carnival is a corporation, the foregoing information shall be furnished as to the managing officer or officers;
(7) Such other information as the Chief of Police deems reasonable and convenient to aid in his investigation as to whether or not a permit should be issued. (Ord. 3259 §1(part), 1967.)

5.72.030 Application Fee.

At the time of filing the application, a fee of ten dollars ($10.00) shall be paid to the Tax and Permit Inspector to cover the cost of processing the application. The application fee shall not be refunded under any circumstances. (Ord. 3259 §1(part), 1967.)

5.72.040 Investigation.

Upon receipt of the application it shall be referred to the Chief of Police, who shall cause such investigation of the applicant's moral character and record of honesty and fair dealing in the circus and carnival business to be made as he deems necessary for the protection of the public well being. The Chief of Police shall also investigate the suitability of the location proposed for the conduct of the circus or carnival from the standpoint of potential traffic and law enforcement problems. (Ord. 3259 §1(part), 1967.)

5.72.050 Permit Approval.

After completion of his investigation, the Chief of Police shall approve or disapprove the application. He may approve an application subject to the compliance by the applicant with conditions imposed for the purpose of protecting the public welfare and interest. (Ord. 3259 §1(part), 1967.)

5.72.060 Permit Issuance.

The Tax and Permit Inspector shall issue a permit or refuse to issue such permit in accordance with the recommendation of the Chief of Police; provided, that no permit shall be issued unless all City fees and taxes applicable to the proposed circus or carnival have been paid, and provided further, that the issuance of any permit shall in no manner be deemed to relieve the applicant from compliance with all City ordinance requirements. (Ord. 3259 §1(part), 1967.)

5.72.070 Time of Permit.

A permit shall not be issued for a period of time longer than, nor for a location other than, those specified in the application. (Ord. 3259 §1(part), 1967.)

5.72.080 Revocation.

Any permit issued under this chapter may be revoked by the Chief of Police upon the determination of facts which would constitute grounds for the denial of the permit. (Ord. 3259 §1(part), 1967.)

5.72.090 Appeal.

Any person aggrieved by any decision relating to the denial, conditional approval or revocation of a permit under this chapter may appeal such decision to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3259 §1(part), 1967.)

5.72.100 Applicant.

The application required by this chapter shall be made by the owner or operator of the circus or carnival business even though the particular circus or carnival event for which a permit is sought is sponsored by a charitable or nonprofit organization or by a local business or other organization whose primary activity is not the operation of a circus or carnival. (Ord. 3259 §1(part), 1967.)

5.72.110 Exemption.

This chapter shall not apply to a circus or carnival which is organized for the purpose of raising funds for a charitable or nonprofit organization in the City of Santa Barbara and which circus or carnival is conducted exclusively by members of such organization. A carnival shall not be deemed to be conducted exclusively by members of a nonprofit or charitable organization unless all persons managing and operating all events in a carnival are members of the organization. (Ord. 3259 §1(part), 1967.)

5.72.120 Application Date.

Applications for a permit under this chapter shall be submitted to the City at least thirty (30) days prior to the time the proposed circus or carnival is to be held. (Ord. 3259 §1(part), 1967.)

Chapter 5.76

BATHS, SAUNA BATHS, MASSAGE PARLORS AND SIMILAR BUSINESSES

Sections:

5.76.010 Definitions.
5.76.020 Permit Required.
5.76.030 Exceptions.
5.76.040 Application - Fee.
5.76.050 Application - Contents.
5.76.060 Facilities Necessary and Regulations.
5.76.070 Permit Procedures.
5.76.080 Display of Permit.
5.76.090 Change of Location.
5.76.100 Employees.
5.76.110 Inspection.
5.76.120 Records of Treatments.
5.76.130 Name of Business.
5.76.140 Revocation and Suspension of Permit.
5.76.150 Sale or Transfer.
5.76.160 Applicability of Regulations to Existing Businesses.
5.76.170 Violation and Penalty.
5.76.180 Separability.

5.76.010 Definitions.

For the purpose of the provisions regulating baths, sauna baths, massage parlors and similar businesses hereinafter set forth, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended:

(a) MASSAGE. A method of treating the external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, or tapping with the hand or any instrument.

(b) MASSAGE ESTABLISHMENT. An establishment having a fixed place of business where any person, association, firm or corporation engages in, conducts, or carries on, or permits to be engaged in, conducted, or carried on, any business of giving massage or Turkish, Russian, Swedish, vapor, sweat, electric, salt, magnetic, or any other kind or character of baths, where alcohol rub, formentation, baths, manipulation of the body or similar procedures is given.

(c) MASSAGE TECHNICIAN OR TECHNICIANS. Any person, male or female, who administers to another person, for any form of consideration, a massage, alcohol rub, fomentation, bath, electric or magnetic massage procedure, manipulation of the body, or other similar procedure. (Ord. 3543 §1(part), 1972.)

5.76.020 Permit Required.

It is unlawful for any person, association, firm or corporation to engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the City of Santa Barbara, the business of a massage establishment or to render, or permit to be rendered massage services at a location removed from a massage establishment within the City of Santa Barbara in the absence of a permit issued pursuant to the provisions hereinafter set forth, and without paying a business tax. (Ord. 3823, 1976; Ord. 3543 §1(part), 1972.)

5.76.030 Exceptions.

The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to any persons designated as follows: physicians, surgeon, chiropractor, osteopath, or any nurse working under the supervision of a physician, surgeon, chiropractor, or osteopath duly licensed to practice their respective professions in the State of California, nor shall the requirements of this chapter apply to any treatment administered in good faith in the course of the practice of any healing art or professions by any person licensed to practice any such art or profession under the Business and Professions Code of the State of California or of any other law of this State. Practical nurses or other persons without qualifications as massage technicians, or other persons not otherwise licensed by the State of California to practice pursuant to the Medical Practice Act, whether employed by physicians, surgeons, chiropractors, or osteopaths or not, may not give massages or massage procedures. (Ord. 3543 §1(part), 1972.)

5.76.040 Application - Fee.

(a) Any person desiring to obtain a permit to operate a massage establishment or to perform massage services shall make application to the Chief of Police for an investigation.

(b) Each application shall be accompanied by a permit fee of ten dollars ($10.00). (Ord. 3543 §1(part), 1972.)

5.76.050 Application - Contents.

Any applicant for a permit shall submit the following information:

(a) The full name and present address of applicant;

(b) The two (2) previous addresses immediately prior to the present address of applicant;

(c) Written statements of at least five (5) bona fide residents of the City of Santa Barbara that the applicant is of good moral character;

(d) Written proof that the applicant is over the age of eighteen (18) years;

(e) Applicant's height, weight, color of eyes and hair;

(f) Two (2) portrait photographs of at least 2" X 2";

(g) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application;

(h) The massage or similar business tax history of the applicant; whether such person, in previously operating in this or another City or State under permit, has had such permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(i) All convictions and the reasons therefor;

(j) A certificate from a medical doctor stating that the applicant has, within thirty (30) days immediately prior thereto, been examined and found to be free of any contagious or communicable disease;

(k) Applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage technicians is taught. The term "recognized school" shall mean and include any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage technicians, which school requires a resident course of study of not less than two hundred (200) hours to be given in not less than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning showing the successful completion of such course of study or learning;

Schools offering correspondence course not requiring actual attendance of class shall not be deemed a "recognized school". The City of Santa Barbara shall have a right to confirm the fact that the applicant has actually attended classes in a recognized school for aforementioned minimum time periods;

(l) In lieu of the information required in subsection (k) above, applicant may submit evidence of not less than five (5) years practical experience as a massage technician certified by the California Massage Technicians Association or by the American Massage Therapy Association or not less than five (5) years experience as a massage technician in a massage establishment certified by either of the aforementioned associations;

(m) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application;

(n) Nothing contained herein shall be construed to deny to the Police Department of the City of Santa Barbara the right to take the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of said department to confirm the height and weight of the applicant. (Ord. 3823, 1976; Ord. 3543 §1(part), 1972.)

5.76.060 Facilities Necessary and Regulations.

No permit to conduct a massage establishment shall be issued unless an inspection by the City of Santa Barbara reveals that the establishment complies with each of the following minimum requirements:

(a) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment, provided, that all such signs shall comply with the sign requirements of the City of Santa Barbara.

(b) No person shall give, or assist in the giving, of any massage to any other person under the age of eighteen (18) years, unless the parent or guardian of such minor person has consent thereto in writing.

(c) Minimum lighting shall be provided in accordance with the California Building Code as adopted and amended by the City, and, in addition, at least one (1) artificial light of not less than forty (40) watts shall be provided in each enclosed room or booth where massage services are being performed on a patron.

(d) Minimum ventilation shall be provided in accordance with the Uniform Building Code.

(e) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.

(f) Hot and cold running water shall be provided at all times.

(g) Closed cabinets shall be provided which cabinets shall be utilized for the storage of clean linen.

(h) In any establishment in which massage services are rendered only to members of the same sex at any one time, such persons of the same sex may be placed in a single separate room or the operators of the massage establishment may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside said room or booth while massage services are being performed.

(i) Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, as well as a minimum of one (1) toilet and one (1) wash basin shall be provided by every massage establishment, provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room or rooms, separate dressing and separate toilet facilities shall be provided for male and for female patrons.

(j) A separate wash basin shall be provided for each portion of a massage parlor wherein massage services are performed for the individual use of each person performing massage services. Such basin shall be provided with soap and hot and cold running water at all times and shall be located within, or as close as practicable, to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin, sanitary towels placed in permanently installed dispensers.

(k) All walls, ceilings. floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(l) Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted. (Ord. 5451, Section 5, 2008; Ord. 3543 §1(part), 1972.)

5.76.070 Permit Procedures.

Any applicant for a permit pursuant to these provisions shall personally appear at the Police Department of the City of Santa Barbara, and after paying the ten dollar ($10.00) permit fee hereinabove provided, shall present to the Police Department the application containing the aforementioned and described information. The Chief of Police shall have a reasonable time in which to investigate the application and the background of the applicant. Based on such investigation, the Chief of Police, or his representative, shall approve or deny the permit.

The Building Division, the Fire Department, and the Santa Barbara County Health Department shall inspect the premises proposed to be devoted to the massage establishment and shall make separate recommendations to the Chief of Police concerning compliance with the foregoing provisions.

The Chief of Police shall grant a permit to the establishment if all requirements for a massage establishment described herein are met and shall issue a permit to all persons who have applied to perform massage services if qualified as hereinabove, unless it appears that any such person has deliberately falsified the application or unless it appears that the record of such persons reveals a conviction of a felony or a crime of moral turpitude.

Any person denied a permit pursuant to these provisions by the Chief of Police, may appeal to the Board of Fire and Police Commissioners in writing, stating reasons why the permit should be granted. The Board may grant or deny the permit and such decision shall be final upon the applicant. Also, the said Board may elect on its own motion to review any determination of the Chief of Police granting or denying a permit.

All permits issued hereunder are non-transferable, provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions herein. (Ord. 3543 §1(part), 1972.)

5.76.080 Display of Permit.

Every person, association, firm or corporation to whom or for which a permit shall have been granted shall display said permit in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage, bath, or treatment is given. (Ord. 3543 §1(part), 1972.)

5.76.090 Change of Location.

A change of location of any of the aforementioned and described premises may be approved by the Chief of Police, provided all ordinances and regulations of the City of Santa Barbara are complied with and the change of location fee of ten dollars ($10.00) is deposited with the City. (Ord. 3543 §1(part), 1972.)

5.76.100 Employees.

It shall be the responsibility of the holder of the permit for the massage establishment or the employer of any persons purporting to act as massage technicians, to insure that each person employed as a massage technician shall first have obtained a valid permit pursuant to this chapter. No registered massage technician aide may independently practice the acts of massage, but he may, as a massage technician aide, assist a technician in the acts constituting the practice of massage under the immediate personal supervision and employment of a registered massage technician, but such aide may assist only while the massage technician is personally present with the patron, and such aide may not perform massage services.

Any massage technician aide shall comply with the requirements of Section 5.76.050. (Ord. 3543 §1(part), 1972.)

5.76.110 Inspection.

The Building Division, Fire Department and Police Department shall, from time to time and at least twice each year, make an inspection of each massage establishment in the City of Santa Barbara for the purpose of determining that the provisions of this Code are met. (Ord. 3543 §1(part), 1972.)

5.76.120 Records of Treatments.

Every person, association, firm, or corporation operating a massage establishment under a permit as herein provided shall keep a record of the date and hour of each treatment, the name and address of the patron, and the name of the technician administering such treatment. Said record shall be open to inspection by officials charged with the enforcement of these provisions for the purposes of law enforcement and for no other purpose. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by any officer or employee of the City of Santa Barbara shall constitute a misdemeanor and such officer or employee shall be subject to the penalty provisions of this chapter, in addition to any other penalties provided by law. Identical records shall be kept of treatments rendered off the business site, and, in addition, shall describe the address where the treatment was rendered. Said records shall be maintained for a period of two (2) years. (Ord. 3543 §1(part), 1972.)

5.76.130 Name of Business.

No person permitted to do business as herein provided shall operate under any name or conduct his business under any designation not specified in his permit. (Ord. 3543 §1(part), 1972.)

5.76.140 Revocation and Suspension of Permit.

A permit issued under authority of this chapter may be suspended for violation of any of its provisions or for fraud or misrepresentation in the permit application, but no permit shall be revoked until after a hearing shall have been held before the Board of Fire and Police Commissioners to determine just cause for such revocation. Provided, however, the Chief of Police may order any permits suspended pending such hearing, and it shall be unlawful for any person to carry on the business of a massage technician or to operate as a massage establishment depending upon the particular type of permit which has been suspended until the suspended permit has been reinstated by the said Board. Notice of such hearing shall be given in writing and served at least five (5) days prior to the date of the hearing thereon. The notice shall state the ground of the complaint against the holder of such permit, or against the business carried on by the permittee at the massage establishment, and shall state the time and place where such hearing will be had at the next regular meeting of the Board following the five (5) day notice period.

The notice shall be served upon the permit holder by delivering the same to such person or by leaving such notice at the place of business or residence of the permit holder in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found, and the service of such notice cannot be made in the manner herein provided, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at his place of business or residence at least five (5) days prior to the date of such hearing. (Ord. 3543 §1(part), 1972.)

5.76.150 Sale or Transfer.

Upon the sale or transfer of any interest in a massage establishment, the permit and tax receipt shall be null and void. A new application shall be made by any person, firm, or entity desiring to own or operate the massage establishment. A fee of ten dollars ($10.00) shall be payable for each such application involving sale or other transfer of any interest in an existing massage establishment. The provisions of this chapter shall apply to any person, firm, or entity applying for a massage establishment permit for premises previously used as such establishment.

Any such sale or transfer of any interests in an existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment, shall require inspection and shall require compliance with this chapter. (Ord. 3543 §1(part), 1972.)

5.76.160 Applicability of Regulations to Existing Businesses.

The provisions of this chapter shall be applicable to all persons and businesses described herein whether the herein described activities were established before or after the effective date of this chapter. (Ord. 3543 §1(part), 1972.)

5.76.170 Violation and Penalty.

(a) Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee, or operator, or whether acting as a participant or worker in any way, who gives massages or conducts a massage establishment or room, or who gives or administers, or who practices the giving or administering of steam baths, electric light baths, electric tub baths, shower baths, sponge baths, vapor baths, fomentation, sun baths, mineral baths, alcohol rubs, Russian, Swedish, or Turkish baths, or any other type of baths, salt flows or any type of therapy or who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit and paying a tax or violates any provision of this chapter shall be guilty of a misdemeanor.

(b) Any owner, operator, manager, or permittee in charge or in control of a massage establishment who knowingly employs a person performing as a massage technician as defined in this part who is not in possession of a valid permit or who allows such an employee to perform, operate, or practice within such a place of business is guilty of a misdemeanor.

(c) Any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinment thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such reliefs as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting, or maintaining a massage establishment contrary to the provisions of this chapter. (Ord. 3543 §1(part), 1972.)

5.76.180 Separability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 3543 §1(part), 1972.)