TITLE 9
Public Peace and Safety

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5687	Prohibition of Urination or Defecation in Public	May 21, 2015	Chapter 9.07
5688	Commercial Use of City Streets	May 21, 2015	Section 9.48.010
5689	Prohibition of Active Panhandling in Specified Locations	May 21, 2015	Sections 9.50.010, 9.50.030, and 9.50.040
5690	Sitting or Lying on Sidewalks and Paseos Along Portions of State Street	May 21, 2015	Section 9.97.010
5691	Pedestrians Blocking Public Sidewalks	May 21, 2015	Section 9.98.010

TITLE 9

PUBLIC PEACE AND SAFETY

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Chapter: 9.04 Curfew
Chapter: 9.05 Consumption of Alcohol in Public Places
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Chapter 9.01

DEFINITIONS

Section:
9.01.010 Definitions.

9.01.010 Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this title, have the meanings indicated in this chapter.

(1) "Billiard room or poolroom" means any place open to the public where billiards or pool is played, or any house, room or building, except a private residence, in which any billiard or pool table is kept and persons are permitted to play or do play thereon, whether any compensation or reward is charged for the use of such table or not;

(2) "Gambling place" means any building or place used for the purpose of illegal gambling as defined by state law or Chapter 9.25 of this Code;

(3) "Loiter" means to lag, wander, or drift in a lingering or aimless manner without apparent object or destination, or to wander, in a vehicle or otherwise, in an idle manner upon a circuitous or repetitious route;

(4) "Sidewalk" means all portions of any public street where the same has no curb line and as to any public street having a curb line includes all portions situated between each curb line and the nearest property line regardless of whether the sidewalk is improved or unimproved. (Ord. 4908, 1995; Prior Code §32.1.)

Chapter 9.04

CURFEW

Sections:

9.04.010 Curfew.
9.04.020 Responsibility of Parent or Guardian.
9.04.030 Definitions.

9.04.010 Curfew.

A. **NIGHTTIME CURFEW.** It is unlawful for any minor under the age of eighteen (18) years to be present in or upon the public streets, avenues, highways, roads, alleys, sidewalks, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement or eating places, parking lots or vacant lots in the City between the hours of 10:00 p.m. on any day and sunrise of the immediately following day. This Section does not apply when:

1. The minor is accompanied by his or her parent, guardian or other adult person having the care or custody of the minor, or by his or her spouse eighteen (18) years of age or older;
2. The minor is on an errand directed by his or her parent or guardian or other adult person having the care or custody of the minor, or by his or her spouse eighteen (18) years of age or older, without any detour or stop;
3. The minor is attending or returning directly home from a public meeting, or a place of public entertainment, such as a movie, play, sporting event or school activity, without any detour or stop;
4. The presence of such minor in said place or places is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged;
5. The minor is attending school, religious, recreational or civic functions;
6. The minor is in a motor vehicle involved in interstate travel;
7. The minor is married, has been previously married or has been declared emancipated pursuant to law;
8. The minor is on the property or sidewalk abutting the minor's residence;
9. The minor is involved in an emergency; or
10. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and freedom of assembly.

B. **DAYTIME CURFEW.** It is unlawful for any minor under the age of eighteen (18) years, who is subject to compulsory education or to compulsory continuation education to be present in or upon the public streets, avenues, highways, roads, alleys, sidewalks, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement or eating places, parking lots or vacant lots in the City during the minor's school hours. This Section does not apply when:

1. The minor is accompanied by his or her parent, guardian, or other adult person having the care or custody of the minor;
2. The minor is involved in an emergency;
3. The minor is going to or coming directly from his or her place of employment or a medical appointment;
4. The minor has permission to leave school campus for lunch or for a school related activity and has in his or her possession a valid off-campus permit issued by the school;
5. The minor is exempt from compulsory education as enumerated in Education Code section 48410;
6. The minor is exempt from compulsory education as enumerated in Education Code sections 48220 et seq.; including, but not limited to, a minor receiving instruction at home pursuant to Education Code sections 48222, 48224, 51745 or other applicable provisions of state law, or is otherwise exempt from attendance at a public or private full-time day school as set forth in the Education Code;
7. The minor is conducting activities which are "excused" for justifiable personal reasons within the meaning of Education Code section 48205;
8. The minor is going directly to or from an event or activity sponsored, sanctioned, or arranged by the school;
9. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and freedom of assembly; or
10. The minor is not a student attending school within the County of Santa Barbara or possesses a valid passport, visitors visa or other form of identification to establish the minor is temporarily visiting within the City, or the minor is in a motor vehicle involved in interstate travel.

C. **VIOLATION.** Notwithstanding any other provisions of this Code, when a person under the age of eighteen (18) years is charged with a violation of this Section, and a peace officer issues a notice to appear in Juvenile Court to that minor, the charge shall be deemed an infraction unless the minor requests that a petition be filed under Section 601 or 602 of the Welfare and Institutions Code.

D. **PENALTIES FOR VIOLATION.** Any person convicted of willfully violating this Section is guilty of an infraction punishable by a fine not to exceed $80.00 and/or eight (8) hours of community service. Community service shall be served during a time other than the minor's hours of school attendance or employment.

E. **ENFORCEMENT.** Before taking any action to enforce the provisions of this Section, police officers shall ask the apparent offender's age and reason for being out in a public place during curfew hours. The officer shall not issue a citation or make an arrest for a violation of this Ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exceptions to this Section apply.

9.04.020 Responsibility of Parent or Guardian.

No parent, guardian or other person having the legal care, custody or control of any person under the age of eighteen (18) years shall knowingly permit or allow such person to violate the provisions of Section 9.04.010.

9.04.030 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section.

A. **EMERGENCY.** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to the following: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

B. **GUARDIAN.** (1) A person who under court order is the guardian of minor, or (2) a public or private agency with whom the minor has been placed by a court order, or (3) a person at least eighteen (18) years of age exercising care and custody of a minor.

C. **MINOR.** Any person under the age of eighteen (18) years of age.

D. **PARENT.** A person who is a natural parent, adoptive parent, or a stepparent of another person.

E. **PUBLIC PLACE.** Any place to which the public or any substantial group of the public has access including, but not limited to, paseos, sidewalks, streets, highways, beaches, parks, playgrounds, and common areas of schools, hospitals, apartments, houses, office buildings, transport facilities, theaters, game rooms, shops, shopping malls, or any other public place of business.

F. **STREET.** A way or place, of whatever nature, open to the use of the public as a matter of right for the purpose of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term "street" includes the legal right of way, including, but not limited to, the traffic lanes, curbs, sidewalk whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term "street" applies irrespective of what the legal right of way is formally called, whether alley, avenue, court, road, or otherwise. (Ord. 5019, 1997; Ord. 4973, 1996; Ord. 4949, 1996; Prior Code §32.8. and 32.9.)

Chapter 9.05

CONSUMPTION OF ALCOHOL IN PUBLIC PLACES

Sections:

9.05.010 Alcoholic Beverages - Public Consumption and Possession of Open Container.

9.05.020 Possession of Alcohol Adjacent to a Licensed Retail Establishment.

9.05.010 Alcoholic Beverages - Public Consumption and Possession of Open Container.

A. No person shall consume an alcoholic beverage, or have in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or which has a seal broken, or the contents of which have been partially removed, upon any public street, alley, sidewalk, parking lot, park, recreation facility or beach, in or immediately adjacent to a public restroom, or other public place within the City except:

1. Within those public parks, beaches or recreational facilities designated by resolution of the City Council as permitting the consumption of alcoholic beverages; or

2. In or on the property of an establishment, business place, or other location properly licensed for the sale and consumption of alcoholic beverages under the Alcoholic Beverage Control Act of the State of California; or

3. During a community special event, provided the Parks and Recreation Director, after consultation with the Chief of Police, has permitted the consumption of alcoholic beverages in connection with the special event use of any park, recreational facility or beach (or any portion thereof) and the event has been issued a Special Event Permit pursuant to Chapter 9.12 of the Municipal Code. The consumption of alcoholic beverages shall only be permitted within those areas of the park, recreation facility or beach so designated by the Director and subject to any additional constraints imposed by the Director and the Chief of Police in connection with the issuance of the Special Events Permit. Nothing in this Section shall be deemed to relieve any applicant or event organizer from full compliance with all alcohol beverage control laws and regulations of the State of California.

4. In or on a park or other recreational facility owned by the City but operated by a private operator or non-profit agency pursuant to an agreement with the City, provided that the operator may establish and enforce its own rules or regulations regarding the consumption or possession of alcoholic beverages.

B. Warning Signs. The City Parks and Recreation Department shall post appropriate signs advising the public that the consumption of alcohol or the possession of open containers of alcohol is not permitted in certain parks, recreation facilities and beaches. (Ord. 5131, 1999; Ord. 4284, 1984; Ord. 4224, 1983.)

9.05.020 Possession of Alcohol Adjacent to a Licensed Retail Establishment.

a) No person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, shall enter, be, or remain on the posted premises, of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the California Business and Professions Code.

b) As used in subdivision (a), "posted premises" means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license and the parking lot immediately adjacent to the licensed premises.

c) Every retail establishment licensed pursuant to Division 9 (commencing with Section 23000) of the California Business and Professions Code shall post its premises within 90 days of the effective date of this ordinance with clearly visible notices, in a form and manner approved by the City, indicating to the patrons of the licensee and parking lot that the provisions of this section are applicable. (Ord. 4224, 1983.)

Chapter 9.07

URINATING OR DEFECATING IN PUBLIC

Section:

9.07.010 Urinating or Defecating in Public Prohibited.

9.07.010 Urinating or Defecating in Public Prohibited.

No person shall defecate or urinate in public or upon any street, sidewalk, or other public place. (Ord. 5687, 2015.)

Chapter 9.08

UNATTENDED MINORS IN VEHICLES

Section:

9.08.010 Minors - Leaving Unattended Unlawful.

9.08.010 Minors - Leaving Unattended Unlawful.

It shall be unlawful for any parent, legal guardian or adult having custody or control of any minor child to leave any minor child under the age of five (5) years unattended by a person at least ten (10) years of age, in any automobile or truck standing in any public street, alley or public or private parking place or lot in the City. (Ord. 3766 §6, 1975; prior Code §32.27.)

Chapter 9.10

KNIVES OR DAGGERS IN PUBLIC PLACES

Section:
9.10.010 Knives or Daggers in Plain View.

9.10.010 Knives or Daggers in Plain View.

A. No person shall wear or carry in plain view any knife or dagger upon any public street or other public place or in any place open to the public.

B. As used in this Chapter the term "knife" or "dagger" shall be defined to mean a knife or dagger having a blade of 3 inches or more in length, an ice pick or other sharp or pointed tool similar to an ice pick, or a straight edge razor (which shall include a tool or handle fitted to hold a razor blade).

C. The prohibitions of this Section shall not apply while a person is wearing or carrying a knife or dagger for use in a lawful occupation, for lawful recreational purposes or while the person is traveling to or returning from participation in such activity. (Ord. 4524, 1988.)

Chapter 9.12

PARADE PERMITS AND REGULATIONS

Sections:
9.12.010 General Provisions.
9.12.020 Definitions.
9.12.030 Permit Required.
9.12.040 Application Procedure.
9.12.050 Contents of Application Form.
9.12.060 Action on Application.
9.12.070 Grounds for Denial of Application for an Event Permit; Imposition of Conditions.
9.12.080 Permit Conditions.
9.12.090 Permit Issuance.
9.12.100 Appeal Procedure.
9.12.110 Indemnification Agreement.
9.12.120 Insurance.
9.12.130 Cleanup Deposits for Certain Special Events.

9.12.010 General Provisions.

A. **TITLE**. This Chapter shall be known as the City of Santa Barbara Parade and Events Ordinance.

B. **PURPOSE AND INTENT**. This Chapter establishes the standards for the issuance of a permit for parades, athletic events, and other events in the City of Santa Barbara.

C. **PROHIBITED ACTS**.

1. It shall be unlawful for any person to sponsor or conduct an event, as defined herein, unless such event permit as may be required under this Chapter has been issued for the event.
2. It shall be unlawful for any person to participate in an event with the knowledge that the sponsor of the event has not been issued the required permit.
3. It shall be unlawful for the permittee or event sponsor to willfully violate the terms and conditions of the permit, or for any event participant, with knowledge thereof, to willfully violate the terms and conditions of the permit.
4. It shall be unlawful to interfere with or disrupt an event.

D. **MERCHANDISING IN CONNECTION WITH AN EVENT.** Nothing herein shall be deemed to authorize the use of a City Street or sidewalk for the sale (or offer for sale) of any merchandise except when such merchandising is duly permitted by the City in accordance with Santa Barbara Municipal Code Chapter 9.48. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.020 Definitions.

As used in this Chapter, the following terms and phrases shall have the indicated meanings:

A. **APPLICANT**. Any person or organization who seeks an event permit from the Chief of Police to conduct or sponsor an event governed by this Chapter. An applicant must be 18 years of age or older.

B. **ATHLETIC EVENT**. An occasion in which a group of persons collectively engage in a sport or other form of physical exercise on a city street, sidewalk, alley, or other street right-of-way, which obstructs, delays, or interferes with the normal flow of pedestrian or vehicular traffic or does not comply with traffic laws and controls. Athletic events include bicycle or foot races and a soap box derby race.

C. **BLOCK PARTY**. A gathering, other than a march or a procession, on a residential or commercial street or area, requiring a closure of a block or blocks of a street, or a portion thereof, including the sidewalk, to vehicular traffic and the use of the street for the gathering.

D. **CHIEF OF POLICE**. The Chief of Police or his authorized deputy.

E. **EVENT**. A parade, athletic event, or a block party.

F. **PARADE**. A march or procession consisting of persons, animals or vehicles, or combination thereof, on any city street, sidewalk, alley, or other street right-of-way, which is likely to obstruct, delay, or interfere with the normal flow of pedestrian or vehicular traffic, or whose participants are likely to not comply with traffic laws and controls, or, a march or procession consisting of persons or persons and horses on any City beach.

G. **PERMIT APPLICATION FEE**. The fee to be paid by the event permit applicant at the time the application is filed with the Chief of Police, pursuant to the application fee schedule established by resolution of the City Council.

H. **PERMITTEE**. Any person or organization issued an events permit by the Chief of Police.

I. **RIGHT-OF-WAY**. As defined in Section 22.44.080 of this Code.

J. **SIDEWALK**. As defined in California Vehicle Code Section 555.

K. **STREET**. A "highway" as that term is used in the California Vehicle Code Section 360. (Ord. 5350, 2005; Ord. 4943, 1996; Ord. 4751, 1992; Ord. 4333, 1985.)

9.12.030 Permit Required.

A. **PERMIT REQUIRED**. Any person intending to conduct or sponsor an event (as defined herein) in the City of Santa Barbara shall first obtain an event permit from the Chief of Police.

B. **APPLICABILITY**. An event permit is not required for the following:

1. An event which occurs exclusively within a city park, which event is regulated by Title 15 of this Code.
2. Funeral processions.
3. A parade reasonably and apparently likely to involve a total of 75 or fewer pedestrians, as determined by the Chief of Police, and as to which the sponsor has agreed to the following restrictions: (i) the participants will march only on sidewalks, and (ii) will cross streets only at pedestrian crosswalks in accordance with traffic regulations and controls, in units of 15 or less, allowing vehicles to pass between each unit. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.040 Application Procedure.

A. **APPLICATION**. Any person desiring to sponsor an event not exempted by Section 9.12.030 shall apply for an event permit by filing a verified application with the Chief of Police on a form supplied by the Chief of Police. All applications shall be submitted not less than 30 days nor more than 12 months before the event date.

B. **LATE APPLICATION**. Upon a showing of good cause, the Chief of Police shall consider an application which is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police services for the event.

C. **FREE SPEECH EVENT APPLICATION**. An application for a permit to conduct an event related to expression protected by the First Amendment which is submitted less than 30 days before the proposed event date shall be accepted upon a showing of good cause. Good cause shall be deemed demonstrated if the applicant shows that (i) the circumstance which gave rise to the permit application did not reasonably allow the participants to file an application within the time prescribed by this Chapter, and (ii) the event is for the purpose of expression protected by the First Amendment.

D. **APPLICATION FEE**. An application for a permit to conduct an event which is not related to First Amendment expression shall be accompanied by a nonrefundable permit application fee in an amount established by resolution of the City Council. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.050 Contents of Application Form.

A. **ALL EVENTS**. An application for an event shall contain all of the following information:

1. The name, address, and telephone number of the applicant and an alternative person who may be contacted if the applicant is unavailable.
2. If the event is proposed to be sponsored by an organization, the name, address and telephone number of the organization and the authorized head of the organization. If requested by the Chief of Police, written authorization to apply for the event permit by an officer of the organization may also be required.

3. The name, address and telephone number of the person who will be present and in charge of the event on the day of the event.
4. The nature or purpose of the event.
5. Date and estimated starting and ending times of the event.
6. Location of the event, including its boundaries.
7. Estimated number of participants in the event.
8. The type and estimated number of vehicles, animals or structures which will be used at the event and information as to whether there will be sponsor-provided water, aid or emergency aid stations at the event.
9. Description of any sound amplification equipment which will be used at the event.
10. Whether any food or beverages, including alcoholic beverages, will be distributed at the event.
11. Whether monitors will be employed at the event.
12. Anticipated parking needed for the event participants.

B. **ADDITIONAL INFORMATION REQUIRED FOR CERTAIN EVENTS**. Events occurring along a planned route shall also provide the following information:
1. The assembly point for the event and the time at which units of the parade or other event will begin to assemble.
2. The proposed route to be traveled.
3. Whether the parade or other event will occupy all or only a portion of the streets proposed to be traversed.
4. The intervals of space to be maintained between units of the parade or other event.
5. The number, types, and size of floats, if any.
6. Material and maximum size of any signs or banners to be carried along the route.

C. **SUPPLEMENTAL INFORMATION**. Any supplemental information for a non-First Amendment event application, which the Chief of Police shall find reasonably necessary under the particular circumstances of the event application, to determine whether to approve or conditionally approve an event permit application pursuant to the provisions of this Chapter. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.060 Action on Application.

The Chief of Police shall approve, conditionally approve, or deny an application on the grounds specified in Section 9.12.070. Such action shall be taken as expeditiously as possible and, in any case, (i) no later than four (4) days after the Chief receives a completed application pursuant to Section 9.12.040(B) or (C) unless the applicant agrees, upon the request of the Chief of Police, to extend the time for making decision to a later date, or (ii) no later than fifteen (15) days after the Chief receives a completed application for any other event.

If the application is denied, or approved on conditions other than those accepted by the applicant, the Chief of Police shall inform the applicant of the grounds for denial in writing, or the reason for the conditions imposed, simultaneously with notice of the decision, and shall further inform the applicant of his or her right of appeal. If the Chief of Police relied on information about the event other than that contained in the application, he shall also inform the applicant of the additional information he considered. The applicant shall be notified in writing of any permit conditions at the time the application is approved and of the applicant's right to appeal the permit conditions. If the Chief of Police determines that good cause to consider a late application does not exist under Section 9.12.040(B) or (C) within forty-eight (48) hours of receipt of the late application, the Chief of Police shall inform the applicant in writing of the reason for his determination regarding lack of good cause and of the applicant's right of appeal. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.070 Grounds for Denial of Application for an Event Permit; Imposition of Conditions.

A. **CONSIDERATIONS**. The Chief of Police shall deny an application for an event permit only if he determines from a consideration of the application and other pertinent information that one or more of the following exists:
1. Information contained in the application, or supplemental information requested from the applicant, is found to be materially false or misleading.
2. The applicant fails to complete the application form after having been notified of the additional information or documents requested.
3. The sole purpose of the event is the advertising of any product, good, ware, merchandise or event, and is designed to be held for private profit and not primarily for the purpose of expression protected by the First Amendment.
4. The Chief of Police has earlier received an application to hold another event at the same time and place requested by the applicant, or so close in time and place as to cause undue traffic congestion, or the Police Department is unable to meet the needs for police services for both events.
5. The time, route, or size of the event is reasonably likely to substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or disrupt the use of a street at a time when it is usually subject to great traffic congestion.

6. The concentration of persons, animals and vehicles at the site of the event or the assembly and disbanding areas around an event, is reasonably likely to prevent proper police, fire, or ambulance services to areas contiguous to the event.

7. The size of the event is reasonably likely to require diversion of so great a number of police officers of the City to ensure that participants stay within the boundaries or route of the event, or to protect participants in the event, as to prevent normal protection to the rest of the City of Santa Barbara. Nothing herein authorizes denial of a permit because of the need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of event participants with the number of police officers available to police the event.

8. The parade, or other event moving along a route, is not reasonably likely to move from its point of origin to its point of termination in four hours or less.

9. The location of the event is reasonably likely to substantially interfere with any construction or maintenance work scheduled to take place upon or along the City streets, or with a previously granted encroachment permit.

10. The event is reasonably likely to occur at a time when a school is in session, or at a route or location adjacent to the school, and the noise created by the activities of the event would substantially disrupt the educational activities of the school.

B. **CONDITIONAL APPROVALS**. When the grounds for denial of an application for a permit specified in subsections A(4) through A(10) above can be corrected by altering the date, time, duration, route, or location of the event, the Chief of Police, instead of denying the application, shall conditionally approve the application pursuant to Section 9.12.080. The conditions imposed shall provide for only such modification of the applicant's proposed event as are necessary to achieve compliance with subsections A(4) through A(10) above, and shall be consistent with rules and regulations established by the Chief of Police and approved by a resolution of the City Council. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.080 Permit Conditions.

The Chief of Police may condition the issuance of an event permit by imposing reasonable requirements concerning the time, place, and manner of the event, and such requirements as are necessary to protect the safety of persons and property, and to provide for adequate control of traffic, provided such conditions shall not unreasonably restrict the right of free speech. Such conditions may include, but need not be limited to the following:

A. Alteration of the date, time, route or location of the event proposed on the event application;

B. Conditions concerning the area of assembly and disbanding of parade or other events occurring along a route;

C. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street;

D. Requirements for the use of traffic cones or barricades;

E. Requirements for provision of first aid, sanitary or emergency facilities;

F. Requirements for use of event monitors and some method for providing notice of permit conditions to event participants;

G. Restrictions on the number and type of vehicles, animals, or structures at the event, and inspection and approval of floats, structures, and decorated vehicles for fire safety by the Santa Barbara Fire Department;

H. Compliance with animal protection ordinances and laws;

I. Requirements for use of garbage containers, cleanup and restoration of City property;

J. Restrictions on use of amplified sound;

K. An application for an event permit to conduct a block party event may be conditioned on notice and approval by 50% of the owners or tenants of dwellings or businesses along the affected street(s).

L. Compliance with any relevant ordinance or law in obtaining any legally required permit or license.

M. Restrictions on the sale of alcoholic beverages. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.090 Permit Issuance.

The Chief of Police shall issue the event permit once the application has been approved, the applicant has agreed in writing to comply with the terms and conditions of the permit, and all of the requirements of this Chapter have been satisfied. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.100 Appeal Procedure.

A. **CITY COUNCIL**. The applicant shall have the right to appeal (i) denial of a permit, (ii) a permit condition, (iii) a determination that good cause to consider a late or First Amendment application does not exist, and (iv) a determination by the City that the applicant's insurance policy does not comply with the requirements specified in Section 9.12.120. A notice of appeal stating the grounds of appeal with specificity shall be filed with the City Clerk pursuant to the provisions of Section 1.30.050 of this Code.

B. **CITY ADMINISTRATOR**. If there is insufficient time for a timely appeal to be heard by the City Council prior to the date on which the event is scheduled, the applicant may, at his option, request that the City Clerk schedule the appeal before the City Administrator. The City Administrator or his designee shall hold a hearing no later than two (2) business days after the filing of the appeal, and will render his decision no later than one (1) business day after hearing the appeal. If the appeal is heard before the City Administrator, the City Administrator's decision shall be final. (Ord. 5136, 1999; Ord. 4333, 1985.)

9.12.110 Indemnification Agreement.

A. Prior to the issuance of an event permit, the permit applicant or the authorized officer of the sponsoring organization must sign an agreement to reimburse the City of Santa Barbara for any costs incurred by it in repairing damage to City property occurring in connection with the permitted event and proximately caused by the actions of the permittee or sponsoring organization, its officers, employees, or agents, or any person who was under the permittee's or sponsoring organization's control insofar as permitted by law. The agreement shall also provide that the permittee or sponsoring organization shall defend the City against, and indemnify and hold the City harmless from, any liability to any persons resulting from any damage or injury occurring in connection with the permitted event proximately caused by the actions of the permittee or sponsoring organization, its officers, employees or agents, or any person who was under the permittee's or sponsoring organization's control insofar as permitted by law and in a form consistent with this requirement and acceptable to the City Attorney. For purposes of this Section, a person who merely joins in a parade or event is not considered, by reason of that act alone, to be "under the control" of the permittee or sponsoring organization.

B. The indemnification requirement of subsection (A) above shall be waived by the City for those applicants who have established a basis for the waiver of insurance pursuant to subsection 9.12.120 (C) hereof. (Ord. 5414, 2007; Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.120 Insurance.

A. **LIABILITY INSURANCE**.

1. The applicant or sponsor of an event must possess or obtain public liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. Such insurance shall name on the policy or by endorsement as additional insureds the City of Santa Barbara, its officers, employees, and agents. Insurance coverage must be maintained for the duration of the event.

2. Coverage shall include, but is not limited to, a Comprehensive General Liability Insurance Policy with minimum limits of $500,000 combined single-limit bodily injury and property damage for each occurrence.

3. If food or non-alcoholic beverages are sold or served at the event, the policy must also include an endorsement for products liability in an amount not less than $500,000. If alcoholic beverages are sold or served at the event, the policy must also include an endorsement for liquor liability in an amount not less than $500,000. At any time when the insurance coverage required under this section may be purchased by a permit applicant through a City-held insurance policy, such coverage shall be made available to all permit applicants at the rates stated in the policy premium schedule.

B. **CERTIFICATES OF INSURANCE**. A copy of the policy or a certificate of insurance along with all necessary endorsements must be filed with the City's Risk Manager no less than five days before the date of the event unless the City's Risk Manager for good cause waives the filing deadline. The event permit shall not be issued by the Chief of Police until after the insurance policy or certificate of insurance along with necessary endorsements have been filed by the applicant or sponsor and approved by the City's Risk Manager.

C. **WAIVER OF INSURANCE REQUIREMENTS**.

1. **First Amendment Events**. The insurance requirements of subsections A and B above shall be waived by the Chief of Police if the applicant or an officer of the sponsoring organization signs a verified statement that (i) he or she believes the event's purpose is First Amendment expression, and (ii) he or she has determined that (a) the cost of obtaining insurance is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment expression, or (b) it is impossible to obtain insurance coverage. Where the applicant submits the statement required under Paragraph 1, the City of Santa Barbara may, in its discretion and at no charge to the applicant, require the applicant or sponsor to apply for insurance coverage for the event under a policy selected or maintained by the City of Santa Barbara. The applicant or sponsor must provide any information necessary to apply for such insurance coverage.

2. **Other Events**. The insurance requirements of Subsections A and B above may be waived by the Chief of Police for other events if the applicant or an officer of the sponsoring organization establishes to the satisfaction of the Chief of Police that the cost of obtaining insurance is financially prohibitive or it is impossible to obtain insurance coverage. If the Chief of Police determines that a waiver of the insurance requirement is appropriate hereunder, the City of Santa Barbara may, in its discretion, require the applicant or sponsor to apply for insurance coverage for the event under a policy selected or maintained by the City of Santa Barbara, in which case the applicant or sponsor shall provide any information necessary to apply for such insurance coverage and shall pay, upon request of the City, all or a portion of the insurance premium attributable to the event. (Ord. 5414, 2007; Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.130 Cleanup Deposits for Certain Special Events.

A. **CLEANUP DEPOSIT**. The applicant or sponsor of an event involving the sale of food or beverages, erection of structures, participation of horses or other large animals, or use of water aid stations, shall be required to provide a cleanup deposit prior to the issuance of an event permit. The cleanup deposit shall be in the amount established in a cleanup fee schedule for events adopted by resolution of the City Council.

B. **REFUND**. The cleanup deposit shall be returned after the event if the area used for the permitted event has been cleaned and restored to the same condition as existed prior to the event. If the actual cost for cleanup is less than the estimated cost, the applicant will be refunded the difference. Should the amount of the bill exceed the cleanup deposit, the difference shall become due and payable to the City upon the applicant's receipt of the bill.

C. **APPEALS**. If the applicant or sponsor disputes the cleanup charge, he may appeal to the Director of Public Works within five days after receipt of the bill. The decision of the Director of Public Works shall be final.
(Ord. 5350, 2005; Ord. 4333, 1985.)

Chapter 9.16

NOISE

Sections:

9.16.010	**Generally.**	**9.16.030**	**Sonic Booms Declared Public Nuisance.**
9.16.015	**Construction Work at Night.**	**9.16.040**	**Creating Sonic Boom Unlawful.**
9.16.020	**Leafblowers - Restriction on Use.**	**9.16.050**	**Sound Amplification.**
9.16.021	**Use of Gasoline Powered Leaf Blowers Prohibited.**	**9.16.060**	**Definitions.**
9.16.025	**Regulation of Noise Affecting Parcels Zoned or Used for Residential Purposes.**	**9.16.070**	**Measurement Methods.**
		9.16.090	**Violations - Additional Remedies - Injunctions.**

9.16.010 Generally.

A. Disturbing the Peace - Excessive or Unreasonable Noise. It is unlawful for any person to make, cause or suffer or permit to be made or caused, upon any premises owned, occupied or controlled by him in the City, any unnecessary noises or sounds which are physically annoying to persons of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to occasion physical discomfort to the inhabitants of the City, or any number thereof.

B. Factors Used in Determining Whether a Violation Has Occurred. The factors which shall be considered by the City in determining whether to issue a citation for a violation and whether a violation of this Section has occurred shall include, but not be limited to, the following:

1. The volume of the noise, music, or related sound;
2. The intensity of the noise, music, or related sound;
3. The continuousness or repetitive nature of the noise, music, or related sound;
4. Whether the nature of the noise, music, or related sound is unusual for the area in which it occurs;
5. Whether the origin of the noise, music, or related sound is natural or unnatural to the area in which it occurs;
6. The volume and intensity of the background noise or sound, if any;
7. The proximity of the noise, music, or related sound to residential sleeping facilities or to overnight accommodations, such as hotels and motels;
8. The proximity to offices, places of business or other areas where work is known to be carried on, of the noise, music, or related sound;
9. The nature and zoning of the area within which the noise, music, or related sound emanates;
10. The time of day or night the noise, music, or related sound occurs and the relationship of this time to the normal activities of the area in which it occurs and in relation to the other factors listed in this subsection;
11. The duration of the noise, music, or related sound;
12. Whether the noise, music, or related sound is recurrent, intermittent, or constant;
13. Whether the noise, music, or related sound is produced by a commercial or a noncommercial activity;
14. Whether the person or business responsible for the noise, music, or related sound has been previously recently warned that complaints have been received about the noise, music, or related sound and such person or business has failed to reduce it to an appropriate level. (Ord. 5145, 2000; Prior Code §32.28.)

9.16.015 Construction Work at Night.

It shall be unlawful for any person, between the hours of 8:00 p.m. of any day and 7:00 a.m. of the following day to erect, construct, demolish, excavate for, alter or repair any building or structure if the noise level created thereby is in excess of the ambient noise level by 5 dBA at the nearest property line of a property used for residential purposes unless a special permit therefor has been applied for and granted by the Chief of Building and Zoning. In granting such special permit the Chief of Building and Zoning shall consider if construction noise in the vicinity of the proposed work site would be less objectionable at night than during daytime because of different population levels or different neighboring activities, if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during daytime, if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site, if the neighborhood of the proposed work site is primarily residential in character wherein sleep could be disturbed, if great economic hardship would occur if the work were spread over a longer time, if the work will abate or prevent hazard to life or property, if the proposed night work is in the general public interest; and he shall prescribe such conditions, working times, types of construction equipment to be used, and permissible noise emissions, as he deems to be required in the public interest. This section shall not be applicable to activities of public or private utilities when restoring utility service following a public calamity or when doing work required to protect persons or property from an imminent exposure to danger. (Ord. 4039, 1980.)

9.16.020 Leaf Blowers - Restriction on Use.

A. DEFINITIONS

1. LEAF BLOWER. Any device used, designed or operated to produce a current of air by fuel, electricity or other means to push, propel or blow cuttings, refuse or debris.
2. NOISE LEVEL STANDARDS. Measured in accordance with those standards developed under the supervision of the American National Standards Institute's (ANSI) "Committee for Sound Level Labeling Standard for Hand Held and Back Pack Gasoline Engine Powered Blowers" presently adopted as ANSI B-175.2-1990 with the maximum noise level of 65 decibels.

B. PROHIBITION IN RESIDENTIAL ZONES

It is unlawful for any person to operate a Leaf Blower within two hundred and fifty feet (250') of any residential zone, as that term is defined in Title 28 of this Code, before 9:00 a.m. or after 5:00 p.m. Monday through Saturday or at any time on Sundays or national holidays, provided that the City Parks and Recreation Department employees shall be allowed to use leaf blowers between the hours of 7:00 a.m. and 9:00 a.m. Monday through Saturday when cleaning parking lots adjacent to the City's Beachfront parks.

C. CLEAN-UP OF DEBRIS

It is unlawful for any person operating any type of Leaf Blower to blow cuttings, refuse or debris onto a neighboring property or into a street or gutter. It is also unlawful for any person operating any Leaf Blower to fail to properly dispose of accumulated debris, leaves, or refuse in a sealed trash or refuse container.

D. PHASE-OUT OF CERTAIN LEAF BLOWERS

1. EXISTING LEAF BLOWERS

The use of Leaf Blowers which are not manufactured to meet or exceed the Noise Level Standards is prohibited in all areas of the City under all circumstances, after October 9, 1997.

2. SALE OF NEW LEAF BLOWERS

It is unlawful to sell or offer for sale within the City of Santa Barbara Leaf Blowers which are not manufactured to meet or exceed the Noise Level Standards of 65 decibels.

E. CERTIFICATION

Owners and operators will present equipment to the City Parks and Recreation Director or his designee, with an application and reasonable fee, for noise testing according to ANSI testing criteria in the Noise Level Standards. Leaf Blowers which generate 65 decibels or less according to the test will be issued a certification sticker, which is valid for one year following the date of testing. The use of a Leaf Blower, without a current and valid certification sticker affixed to it, within the City after July 1, 1998 is an infraction.

All sound level measurements described in this section shall be taken with a Sound Level Meter.

F. GUIDELINES FOR THE PROPER USE OF LEAF BLOWERS

The City Parks and Recreation Director is hereby authorized and directed to adopt guidelines for the proper use of Leaf Blowers which guidelines shall promote the safe and efficient use of Leaf Blowers, while also mitigating, to the extent possible, the noise and nuisance effects of Leaf Blowers. The Finance Department is hereby directed to provide a copy of this ordinance and the Leaf Blower guidelines to each person obtaining a City business license for the operating of a gardening or landscaping maintenance service or business within the City. The operator of every business establishment selling Leaf Blowers within the City of Santa Barbara shall post in a conspicuous location and shall distribute to all purchasers a copy of this ordinance and the guidelines. (Ord. 5037, 1997; Ord. 5024, 1997; Ord. 4720, 1991; Ord. 4718, 1991; Ord. 4452, 1987.)

9.16.021 Use of Gasoline Powered Leaf Blowers Prohibited.

Measure D97, adopted November 4, 1997, provides: In order to secure and promote the public health, comfort, safety and welfare, and to protect the rights of its citizens to privacy and freedom from nuisance, it is the purpose of this ordinance to prohibit unnecessary, excessive and annoying noises at levels which are detrimental to the health and welfare of the community, and to minimize airborne dust and pollen.

It shall be unlawful for any person within the City to use or operate any portable machine powered with a gasoline engine, or gasoline powered generator, to blow leaves, dirt, and other debris off sidewalks, driveways, lawns, or other surfaces. (Ord. 5036, 1997.)

9.16.025 Regulation of Noise Affecting Parcels Zoned or Used for Residential Purposes.

A. Hours of Operation. Hours of operation for planting, grading, vegetation removal, harvesting, sorting, cleaning, packing, shipping, and pesticide application shall be limited to 7:00 AM to 7:00 PM Monday through Saturday. Hours of operation for the above-stated activities shall be limited to 8:00 AM to 7:00 PM on Sunday and holidays.

B. Mechanical Equipment. Mechanical equipment other than vehicles and equipment which is operated by electricity obtained from an electricity utility company shall not be used outside before 8:00 AM or after 7:00 PM on Saturday, Sunday or holidays or before 7:00 AM or after 7:00 PM Monday through Friday.

C. Noise Limitations. All mechanical equipment other than vehicles shall be insulated and sound at the property line of any adjacent parcel used or zoned for residential, institutional or park purposes shall not exceed sixty A-weighted decibels using the Community Noise Equivalent Level (60 dB(A) CNEL). All wind machines are prohibited in the City. (Ord. 4878, 1994.)

9.16.030 Sonic Booms Declared Public Nuisance.

Flights of manned and piloted aircraft over and in the vicinity of the City so as to cause loud, sudden and intense "sonic booms" in the City constitute a public nuisance. (Ord. 3246 §1, 1967.)

9.16.040 Creating Sonic Boom Unlawful.

It is unlawful to pilot any aircraft over and in the vicinity of the City at supersonic speeds so as to cause loud, sudden and intense "sonic boom" impacts in the City. (Ord. 3246 §2, 1967.)

9.16.050 Sound Amplification.

No person shall amplify sound using sound amplifying equipment contrary to any of the following:

(a) The only amplified sound permitted shall be either music or the human voice or both.

(b) Sound emanating from any public park or place shall not be amplified above the ambient noise level so as to be audible within any hospital, rest home, convalescent hospital, or church while services therein are being conducted.

(c) The volume of amplified sound shall not exceed the noise levels set forth herein when measured outdoors at or beyond the property line of the property from which the sound emanates.

Time Period	Maximum Noise Level
10 p.m. - 7 a.m.	50 dBA
7 a.m. - 10 p.m.	60 dBA

(d) The volume of amplified sound inside a structure shall not exceed the noise levels set forth herein when measured inside a building used for residential purposes. This maximum noise level shall not apply to the dwelling unit from which the sound is emanating.

Time Period	Maximum Noise Level
10 p.m. - 7 a.m.	40 dBA
7 a.m. - 10 p.m.	45 dBA

(e) The limits set forth above shall not apply to the following:

(1) Amplification of sound by a person as part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County, provided the County has adopted or approved a sound control plan for the property which is applicable to the event or activity.

(2) Amplification of sound by a person as a part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County of Santa Barbara and for which property the County has not developed a sound control plan.

(3) Amplification of sound by a person as part of an activity or event sponsored or approved by the City of Santa Barbara on property owned by or leased to the City of Santa Barbara.

(4) Amplification of sound by a person as part of an activity or event sponsored by or approved by a nursery school, elementary school, secondary school or college or university on property owned by or leased to said educational institution.

(5) Amplification of sound by a person as part of an activity or event sponsored by or approved by a public entity on property owned by or leased to said public entity. (Ord. 4039, 1980.)

9.16.060 Definitions.

Unless the context otherwise clearly requires, technical words and phrases used in this chapter are defined as follows:

(a) Sound Amplifying Equipment. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music, or any other sound. "Sound amplifying equipment" shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound amplifying equipment" as used in this chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes and shall not include communication equipment used by public or private utilities when restoring utility service following a public calamity or when doing work required to protect persons or property from an imminent exposure to danger.

(b) Ambient Noise. "Ambient noise" is the all-encompassing noise associated with a given environment, being usually composed of sounds from many sources near and far. For the purpose of this ordinance, ambient noise level is the level obtained when the noise level is averaged over a period of five (5) minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.

(c) Decibel. "Decibel" (dB) shall mean an intensity unit which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio is ten (10) times the common logarithm of this ratio.

(d) Sound Level. "Sound level" (noise level) in decibels is the value of a sound measurement using the "A" weighting network of a sound level meter. Slow response of the sound level meter needle shall be used except where the sound is impulsive or rapidly varying in nature in which case fast response shall be used.

(e) Person. "Person" shall mean a person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

(f) Sound Level Meter. "Sound level meter" shall mean an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent requirements in American National Standards Institute's specification S1.4 - 1971 or the most recent revision thereof for type S-2A general purpose sound level meters.

(g) Supplementary Definitions of Technical Terms. Definitions of technical terms not defined herein shall be obtained from the American National Standards Institute's Acoustical Terminology S1-1-1971 or the most recent revision thereof. (Ord. 4039, 1980.)

9.16.070 Measurement Methods.

(a) Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty (20) micronewtons per square meter (0.0002 microbar) as measured with a sound level meter using the "A" weighting, and using the slow meter response.

(b) Unless otherwise provided, outdoor measurements shall be taken with the microphone located at any point on the property line of the noise source, but no closer than five (5) feet from any wall or vertical obstruction and three (3) to five (5) feet above ground level whenever possible.

(c) Unless otherwise provided, indoor measurements shall be taken inside the structure with the microphone located at any point as follows: (1) no less than three (3) feet above floor level; (2) no less than five (5) feet from any wall or vertical obstruction; and (3) not under common possession and control with the building or portion of the building from which the sound is emanating. (Ord. 4039, 1980.)

9.16.090 Violations - Additional Remedies - Injunctions.

As an additional remedy, the operation or maintenance of any sound amplifying equipment, device, instrument, vehicle, or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 4039, 1980.)

Chapter 9.20

SMOKING PROHIBITED IN CERTAIN PUBLIC AREAS

Sections:

9.20.010	**Definitions.**	**9.20.050**	**Areas Where Smoking is Not Prohibited.**
9.20.020	**Application to Facilities and Vehicles Owned or Leased by the City.**	**9.20.060**	**Regulation of the Sale and Distribution of Tobacco Products.**
9.20.030	**Regulation of Smoking in Public Places.**	**9.20.070**	**Posting of Signs.**
		9.20.080	**Enforcement.**
9.20.040	**Regulation of Smoking in Places of Employment.**	**9.20.090**	**Public Education.**

9.20.010 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this section:

A. **BAR.** Any business licensed or required to be licensed by the Department of Alcoholic Beverage Control for alcoholic beverage on-sale privileges as a “public premise” as defined by California Business and Professions Code section 23039.

B. **CUSTOMER SERVICE AREA.** Any enclosed area of any business or public place to which this Chapter is applicable and to which customers or members of the public have access, including, but not limited to, hallways, waiting areas, lobbies, entrances and exits, or portions of a dining area not occupied by counters or tables.

C. **DINING AREA.** An enclosed area containing a counter or tables upon which food is served.

D. **EMPLOYEE.** A person who is employed by any employer in consideration for direct or indirect monetary wages or profit and any person who volunteers his or her services for a nonprofit entity.

E. **EMPLOYER.** A person, partnership, firm, or corporation, including public and nonprofit entities, which employs any person other than an owner of the entity.

F. **ENCLOSED AREA.** All space between a floor and ceiling which is enclosed on all sides by solid walls, or windows, or doors, which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid. (For the purposes of this Chapter, the term "enclosed" or "enclosed facilities" shall refer to an "enclosed area.")

G. **PLACE OF EMPLOYMENT.** An enclosed area under the control of any employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, hallways and employer-furnished motor vehicles. A private residence is not a "place of employment" unless it is used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health & Safety Code.

H. **PUBLIC PLACE.** Any area to which the public is invited or in which the public is generally permitted. For the purposes of this Chapter, a private residence is not a "public place" except when the residence is used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health & Safety Code.

I. **RESTAURANT.** Any coffee shop, cafeteria, luncheonette, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, boardinghouse, or guest house, which gives or offers for sale food to the public, which is not licensed or not required to be licensed by the Department of Alcoholic Beverage Control for alcoholic beverage on-sale privileges.

J. **RESTAURANT-BAR COMBINATION.** Any restaurant (as defined above) which is licensed or required to be licensed by the Department of Alcoholic Beverage Control for alcoholic beverage on-sale privileges as a “bona fide eating place” as defined by California Business and Professions Code section 23038.

K. **RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories.

L. **SELF-SERVICE DISPLAYS.** An open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without the intervention of an employee.

M. **SERVICE LINE.** A line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

N. **SMOKING.** Inhaling, exhaling, burning or carrying any lighted pipe, cigar, cigarette, weed, plant or other combustible organic or chemical substance, the smoke from which is specifically designed or intended to be inhaled or drawn into the nose or mouth.

O. **SPORTS AREA.** An enclosed or open sports pavilion, gymnasium, health spa, stadium, boxing arena, swimming pool, roller and ice rink, bowling alley, and other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events, including the customer service areas, and the lobby, foyer, or concession-stand areas thereof.

P. **TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

Q. **TOBACCO VENDING MACHINE.** Any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, bills, trade checks, slugs or other form of legal tender or consideration.

R. **VENDOR-ASSISTED**. When a store employee has access to the tobacco product and assists a customer by supplying the product. (Ord. 5243, 2002; Ord. 4877, 1994.)

9.20.020 Application to Facilities and Vehicles Owned or Leased by the City.

Smoking is prohibited in all enclosed areas of City facilities and all vehicles owned, leased or operated by the City. (Ord. 4877, 1994.)

9.20.030 Regulation of Smoking in Public Places.

A. **GENERAL PROHIBITIONS.** Smoking shall be prohibited in all enclosed public places and non-enclosed public places where specified herein within the City of Santa Barbara including, but not limited to, the following public places:

1. Elevators, enclosed or not.
2. Buses, taxicabs, and other means of public transit, enclosed or not.
3. Ticket, or boarding areas of public transit depots, enclosed or not.
4. Bus stops, enclosed or not.
5. Restrooms.
6. Service lines, enclosed or not.
7. Retail stores, enclosed or not.
8. Malls, except in outdoor malls.
9. All enclosed areas available to, and customarily used by, the general public in all businesses, nonprofit entities and public agencies patronized by the public including, but not limited to, ticket, boarding, and waiting areas of public transit depots, offices, banks, laundromats, beauty and barber shops, and the common areas of hotels and motels.
10. Enclosed common areas in apartment buildings, condominiums, retirement facilities, and nursing homes.
11. Enclosed areas of child day care facilities and private residences while used as child care, health care, board and care, and community foster care facilities as those terms are defined by the state Health & Safety Code.
12. Galleries, aquariums, libraries, and museums, enclosed or not.
13. Within any area or facility, enclosed or not, which is primarily used for, or designed for the primary purpose of exhibiting any motion picture, stageplay, drama, lecture, musical recital, or other similar performance, including the lobby, foyer, and concession-stand areas thereof. To the extent that the act of smoking forms part of a dramatic live stage production, this Chapter shall not be construed so as to prohibit the smoking of non-tobacco-product "stage cigarettes" or similar materials in the form of cigars or pipes.
14. Restaurants, including customer service areas and outdoor seating sections, except that twenty-five percent (25%) of the outdoor seating sections of restaurants may be set aside and designated and maintained as smoking sections so long as:
    a. The entire smoking section is in the same area;
    b. The entire smoking section is located the furthest distance from the entrance of the building; and
    c. The smoking section is clearly marked or labeled with signs.
15. Restaurant-bar combinations, including customer service areas and outdoor seating sections, except that twenty-five percent (25%) of the outdoor seating sections of restaurant-bar combinations may be set aside and designated and maintained as smoking sections before 10:00 p.m. so long as:
    a. The entire smoking section is in the same area;
    b. The entire smoking section is located the furthest distance from the entrance of the building; and
    c. The smoking section is clearly marked or labeled with signs.

In addition, one hundred percent (100%) of the outdoor seating areas of restaurant-bar combinations may be set aside and designated as smoking sections after 10:00 p.m.

16. Within sports arenas and convention halls.
17. Video arcades, bingo parlors, card rooms, game rooms, pool halls, dance halls, amusement centers, and bowling alleys.
18. Every room, chamber, or place of indoor meeting or indoor public assembly.
19. Waiting rooms, hallways, wards, and patient rooms, and customer service areas of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
20. Areas which share air space (including but not limited to air conditioning, heating, or other ventilation systems) with other areas in which smoking is prohibited.
21. Polling places, enclosed or not.
22. Some of the rooms in any hotel or motel; these rooms shall be designated and maintained as non-smoking rooms.

B. **SMOKE FREE AREAS.** Notwithstanding any other provision of this Chapter, any owner, operator, manager, or other person who controls any establishment described in this Chapter may declare that entire establishment to be a non-smoking establishment. (Ord. 5243, 2002; Ord. 4877, 1994.)

9.20.040 Regulation of Smoking in Places of Employment.

A. **EMPLOYER RESPONSIBILITY.** It shall be the responsibility of employers to provide a smoke-free place of employment for all employees.

B. **SMOKING POLICY.** Within 90 days of the effective date of this Chapter, each employer having an enclosed place of employment located within the City shall adopt, implement, make known to its employees, and maintain a written smoking policy which shall contain the following minimum requirements:

1. Smoking shall be prohibited in all enclosed facilities within a place of employment, without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
2. Smoking outside of the work building shall occur only at a reasonable distance from the building which minimizes any smoke entering the building from doors or windows.
3. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption, and at least annually thereafter.
4. All employers shall supply a written copy of the smoking policy to any existing or prospective employee who so requests.
5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights to a smoke-free place of employment afforded by this Chapter or because any such employee or applicant is in full compliance with this Chapter. (Ord. 4877, 1994.)

9.20.050 Areas Where Smoking is Not Prohibited.

A. **AREAS WHERE SMOKING IS PERMITTED.** Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

1. Private residences, except when used as a child care, health care, board and care, or community foster care facility as those terms are defined by the state Health & Safety Code.
2. Any place of employment which employs only the owner and no other employee, provided that the enclosed area containing the place of employment does not share a ventilation system with any other enclosed place of employment or public place.
3. Retail tobacco stores.
4. Designated hotel and motel guest rooms provided that some of the guest rooms in such hotel or motel are designated and maintained as non-smoking rooms.
5. Twenty-five percent (25%) of the outdoor seating sections of restaurants so long as:
   a. The entire smoking section is in the same area;
   b. The entire smoking section is located the furthest distance from the entrance to the building; and
   c. The smoking section is clearly marked or labeled with signs.
6. Twenty-five percent (25%) of the outdoor seating sections of restaurant-bar combinations before 10:00 p.m. so long as:
   a. The entire smoking section is in the same area;
   b. The entire smoking section is located the furthest distance from the entrance to the building; and
   c. The smoking section is clearly marked or labeled with signs.
7. One hundred percent (100%) of the outdoor seating areas of restaurant-bar combinations after 10:00 p.m.
8. One hundred percent (100%) of the outdoor seating areas of bars. (Ord. 5243, 2002.)

9.20.060 Regulation of the Sale and Distribution of Tobacco Products.

A. **POSTING OF SIGNS.** Any person, business, tobacco retailer, or other establishment subject to this Chapter shall post STAKE Act signs at the point of purchase of tobacco products, which are in compliance with signage specifications and state:

> "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. VALID IDENTIFICATION MAY BE REQUIRED, TO REPORT AN UNLAWFUL TOBACCO SALE, CALL 1-800-5ASK-4-ID. BUSINESS AND PROFESSIONS CODE SECTION 22952."

B. **SALES TO MINORS.** No person, business, tobacco retailer, or owner, manager, or operator of any establishment subject to this Chapter shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser's age as eighteen years or greater unless the seller has some reasonable basis for determining that the buyer is at least eighteen years of age.

C. **SELF-SERVICE SALES OF TOBACCO.**

1. Sales of Tobacco Products by the Pack. It shall be unlawful for any person, business, or tobacco retailer within the City to sell, offer for sale, or display for sale any tobacco product by means of a self-service display. All tobacco products (other than cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco displayed for sale pursuant to subparagraph C(2) below) shall be offered for sale exclusively by means of vendor/employee assistance.

2. Sales of Cartons, Cigars, and Pipe Tobacco. Cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco may be sold by means of self-service merchandising displays only when such product displays are under the direct observation of a vendor/employee. Tobacco products shall be deemed to be under direct observation of a vendor/employee only if the tobacco products themselves (and not merely the racks, shelves, kiosks, etc., where the products are displayed) are in the plain and direct view of a store employee at all times.

D. **TOBACCO VENDING MACHINES.** No person, business, tobacco retailer, or other establishment subject to this Chapter shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance, or use of, on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of this Chapter shall be removed within thirty (30) days after the effective date of this Chapter.

This provision shall not apply to vending machines which are located in bars provided that such vending machines in bars must be located at least twenty-five (25) feet from any entry into the bar.

E. **OUT OF PACKAGE SALES.** No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings. (Ord. 5243, 2002; Ord. 4992, 1996; Ord. 4897, 1994; Ord. 4877, 1994.)

9.20.070 Posting of Signs.

A. **REQUIREMENTS FOR NO SMOKING SIGNS.** "Smoking" or "No Smoking," signs, whichever are appropriate, with letters of not less than one inch (1") in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is regulated by this Chapter, by the owner, operator, manager or other person having control of such building or other place.

B. **REGULATIONS WITH RESPECT TO THEATER SIGNS.** Every theater owner, manager, or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium and, in the case of motion picture theaters, such information shall be shown upon the screen for at least five (5) seconds prior to the showing of each motion picture.

C. **REGULATIONS WITH RESPECT TO RESTAURANT SIGNS.** Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

D. **REGULATIONS WITH RESPECT TO HOTEL/MOTEL SIGNS.** Every hotel and motel shall have signs posted conspicuously in the registration and lobby areas which state that non-smoking rooms are maintained and may be available; rooms designated as being non-smoking shall have signs announcing such restriction conspicuously placed within each room. (Ord. 4877, 1994.)

9.20.080 Enforcement.

A. **CITY ENFORCEMENT.** The City Administrator, in cooperation with the County Health Officer of the County of Santa Barbara, shall enforce and implement this Chapter.

B. **PRIVATE CITIZENS.** Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the City Administrator or the County Health Officer of the County of Santa Barbara.

C. **VIOLATIONS/PENALTIES.** Any person, business owner or proprietor, or employer of any business or establishment subject to the requirements of this Chapter who violates any mandatory provision of this Chapter shall be guilty of an infraction punishable in accordance with Chapter 1.28 of this Code.

D. **PRIVATE RIGHT OF LEGAL ACTION.** Notwithstanding any other provision of this Chapter, a private citizen may bring legal action to enforce this Chapter. (Ord. 4877, 1994.)

9.20.090 Public Education.

A. **PROGRAM OF PUBLIC EDUCATION.** The City Administrator, in conjunction and coordination with the County Health Officer and, where feasible, appropriate health or safety oriented community-based organizations and coalitions, shall engage in a continuing program to explain and clarify the purposes of this Chapter to citizens affected by it, and to guide owners, operators, and managers in their compliance with it.

B. **GOVERNMENTAL COOPERATION.** The City Administrator shall annually request such governmental and educational agencies having offices with the City to establish local operating procedures and procedures that are in cooperation and comply with this Chapter. The City Administrator shall urge Federal, State, and special districts to enact and enforce no-smoking prohibitions and restrictions for their facilities within the City that are in accordance with this Chapter. (Ord. 4877, 1994.)

Chapter 9.21

REGULATION OF TOBACCO RETAILERS

Sections:

9.21.010 Findings.
9.21.020 Purpose.
9.21.030 Definitions.
9.21.040 Requirement for Tobacco Retailer License.
9.21.050 Application Procedure.
9.21.060 Issuance of Tobacco Retailer License.
9.21.070 Display of Tobacco Retailer License.
9.21.080 Fees for Tobacco Retailer License.
9.21.090 Tobacco Retailer License Non-Transferable.
9.21.100 Suspension of Tobacco Retailer License; Appeals.
9.21.110 Administrative Fines; Penalties; Enforcement.
9.21.120 Grace Period.

9.21.010 Findings.

The City Council of the City of Santa Barbara is reliably informed that:

A. State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors.

B. State law requires tobacco retailers to check the identification of tobacco purchasers who reasonably appear to be under 18 years of age and provides procedures for onsite sting inspections of tobacco retailers using persons under 18 years of age.

C. The results of the 2000 California Youth Tobacco Purchase Survey demonstrate that 12.8% of retailers surveyed sold tobacco product to minors, however, the most recent local youth purchase survey showed youth buy rates of 38%.

D. The California courts in such cases as Cohen v. City Council, 40 Cal.3d 277 (1985), and Bravo Vending v. City of Rancho Mirage, 16 Cal.App.4th 383 (1993), have affirmed the power of cities to regulate business activity in order to discourage violations of state law.

E. The City has the power to regulate the operation of lawful businesses to avoid circumstances that facilitate violations of the state, federal, and local laws. (Ord. 5260, 2002.)

9.21.020 Purpose.

It is the intent of the City Council, in enacting this Chapter, to discourage violations of laws which prohibit or discourage sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by state or federal law are criminally proscribed. (Ord. 5260, 2002.)

9.21.030 Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. **Licensing Agent**. The City of Santa Barbara Business License Office.

B. **Health Officer**. The County Health Officer or his/her duly authorized designee.

C. **Person**. Any natural person, partnership, cooperative association, private or public corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

D. **Police Chief**. The Chief of Police for the City of Santa Barbara or his/her duly authorized designee.

E. **Tobacco Product**. Any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, smokeless tobacco, chewing tobacco, dipping tobacco, or any other preparation of tobacco, including Indian cigarettes called “bidis” which may be used for smoking, chewing, inhalation or other manner of ingestion.

F. **Tobacco Retailer**. Any person who sells, offers for sale, or offers to exchange for any form of consideration, tobacco, or tobacco products; “tobacco retailing” shall mean the doing of any of these things.

G. **Tobacco Retailer License**. A license that permits the retail sale of tobacco products. (Ord. 5260, 2002.)

9.21.040 Requirement for Tobacco Retailer License.

A. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer license pursuant to this Chapter for each location at which that activity is to occur.

B. No tobacco retailer license may be issued to authorize tobacco retailing at a location other than a fixed location.

C. Tobacco retailer licenses are valid for one (1) year and each tobacco retailer shall apply for renewal of the tobacco retailer license prior to its expiration.

D. The receipt of a tobacco retailer license does not exempt any business that is subject to the smoke-free work place provisions within the Santa Barbara Municipal Code and Labor Code Section 6404.5. (Ord. 5260, 2002.)

9.21.050 Application Procedure.

A. A completed application and a copy of the completed application for a tobacco retailer license shall be submitted to the Licensing Agent in the name of the person proposing to conduct retail tobacco sales and shall be signed by such person or an authorized agent thereof. All applications shall be submitted on a form supplied by the Licensing Agent and shall contain the following information:

1. The name, address, and telephone number of the applicant;
2. The business name, address, and telephone number of each location for which a tobacco retailer license is sought; and
3. Such other information as the Police Chief deems necessary for enforcement of this Chapter.

(Ord. 5260, 2002.)

9.21.060 Issuance of Tobacco Retailer License.

A. Within thirty (30) days of the Licensing Agent's receipt of an application for a tobacco retailer license, the Licensing Agent shall issue a tobacco retailer license, unless it has been determined by the Licensing Agent that the issuance of the tobacco retail license should be denied, based on the following criteria:

1. The application is incomplete or inaccurate; or
2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to Section 9.21.100 of this Chapter.

B. A denial of a license may be appealed pursuant to Section 9.21.100.

C. The Licensing Agent shall keep a permanent record of all tobacco retail licenses issued, but may destroy such records as provided by law with the approval of the City Council. (Ord. 5260, 2002.)

9.21.070 Display of Tobacco Retailer License.

Each tobacco retailer licensee shall prominently display the tobacco retailer license at each location where tobacco retailing occurs. (Ord. 5260, 2002.)

9.21.080 Fees for Tobacco Retailer License.

A. The fee for a tobacco retailer license shall be established by resolution of the City Council and shall be calculated so as to no more than recover the cost of the tobacco retailer license program. The fee for a tobacco retailer license shall be paid to the Licensing Agent.

B. A tobacco retailer license shall be valid for a term of one year, commencing on January 1 and ending on December 31 of each year. If a tobacco retailer license is issued after January 1, the fee shall be pro-rated on a quarterly basis accordingly. (Ord. 5260, 2002.)

9.21.090 Tobacco Retailer License Non-Transferable.

A. A tobacco retailer license is nontransferable.

B. In the event a person to whom a tobacco retailer license has been issued changes business location or sells the business referenced in that person's tobacco retailer license, that person must apply for a new tobacco retailer license prior to acting as a tobacco retailer at the new location. The transferee of the tobacco retailer license must apply for a tobacco retailer license in the transferee's name before acting as a tobacco retailer. (Ord. 5260, 2002.)

9.21.100 Suspension of Tobacco Retailer License; Appeals.

A. **GROUNDS FOR SUSPENSION**.

1. A tobacco retailer license shall be suspended if the tobacco retailer licensee or his or her agent or employee has violated any state or local law governing the sale, advertisement or display of tobacco products, including but not limited to: Penal Code Section 308a, or Business and Professions Code Sections 22950 et. seq. (Stop Tobacco Access to Kids Enforcement Act "STAKE Act") or 22962, or Business and Professions Code 25612.5 (c)(7) based on information provided by the Police Department, Health Officer, or any other governmental agencies.
2. The Police Chief shall provide notice of suspension to a tobacco retailer licensee by personal service or by certified mail, return receipt requested, addressed to the business where the tobacco retailer license was issued. The suspension shall be effective when notice is personally served or when the certified mail return receipt is returned.

B. **SUSPENSION OF LICENSE**. If the Police Chief determines that there are grounds for suspension of a license, based upon information provided by the Health Officer, the Police Department, or any other governmental agencies, the following sanctions shall be imposed:

1. Upon a first finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer licensee shall receive a letter of warning.

2. Upon the second finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or by any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer license shall be suspended for thirty (30) days.

3. Upon the third finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or by any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer license shall be suspended for ninety (90) days.

4. Upon a fourth or subsequent finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or by any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer license shall be suspended for twelve (12) months.

C. **REINSTATEMENT OF TOBACCO RETAILER LICENSE**.

1. Upon the end of a suspension period and so long as there are no outstanding violations, the Licensing Agent may reinstate a tobacco retailer license.

D. **APPEAL OF DENIAL OR SUSPENSION**.

1. A tobacco retailer licensee may appeal a denial or suspension of a tobacco retailer license to the Board of Fire and Police Commissioners. All appeals shall be conducted in accordance with the procedures, where applicable, set forth in Sections 1.25.090, 1.25.100, and 1.25.110 of this Code.

2. The tobacco retailer licensee may seek judicial review of the decision of the Board of Fire and Police Commissioners in accordance with Code of Civil Procedure sections 1094.5 and 1094.6. (Ord. 5260, 2002.)

9.21.110 Administrative Fines; Penalties; Enforcement.

A. Any violation of the provisions of this Chapter by any person may be either an infraction or a misdemeanor. Any violation of the provisions of this Chapter by any person is also subject to administrative fines as provided in Chapter 1.25.

B. If the Police Chief finds, based on substantial record evidence that any unlicensed person has engaged in tobacco retailing activities in violation of Section 9.21.040 of this Chapter, the City shall fine that person as follows.

1. Each day that an unlicensed person offers tobacco, tobacco products, or tobacco for sale or exchange shall constitute a separate violation and that person is subject to assessed fines in accordance with Chapter 1.25 of this Code.

C. Violations of this ordinance are hereby declared to be public nuisances.

D. In addition to other remedies provided by this Chapter or by other law, any violation of this ordinance may be remedied by a civil action brought by the City Attorney, including but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief. The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. (Ord. 5260, 2002.)

9.21.120 Grace Period.

Any person who is selling tobacco products as of the effective date of this Chapter shall obtain a tobacco retailer license within thirty (30) days of the effective date of this Chapter. (Ord. 5260, 2002.)

Chapter 9.25

GAMBLING

Sections:

9.25.010 Gambling Place Prohibited.
9.25.020 Playing or Betting Prohibited.
9.25.030 Exceptions.

9.25.010 Gambling Place Prohibited.

It is hereby declared unlawful for any person to keep, conduct, or maintain within the City, or knowingly to permit any house, room, apartment or place, owned by him or under his charge or control in the City, where any game not mentioned in Sections 330, 330a and 337a of the Penal Code of the State of California, including but not limited to draw poker, lowball poker, high-low split or panguinque, is played, conducted, dealt or carried on with cards, dice or other device, for money, checks, chips, credit or any other representative of value. (Ord. 4094, 1981.)

9.25.020 Playing or Betting Prohibited.

It is hereby declared unlawful for any person to play or bet at or against any game not mentioned in Sections 330, 330a, and 337a of the Penal Code of the State of California, including but not limited to draw poker, lowball poker, high-low split or panguinque, which is played, conducted, dealt or carried on with cards, dice or other device, for money, checks, chips, credit or any other representative of value, at any place within the corporate limits of the City. (Ord. 4094, 1981.)

9.25.030 Exceptions.

Sections 9.25.010 and 9.25.020 shall not apply to bingo conducted in accordance with Chapter 9.26 of Title 9 of this Code. (Ord. 4908, 1995; Ord. 4094, 1981.)

Chapter 9.26

BINGO

Sections:

9.26.010 Definitions.
9.26.020 Bingo Permitted.

9.26.010 Definitions.

For the purposes of this Chapter, the following words and phrases are identified as follows:

(1) "Bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Bingo includes a punch board which is defined as any card, board or other device which may be played or operated by pulling, pressing, punching out or otherwise removing any slip, tab, paper or other substance therefrom to disclose any concealed number, name or symbol.

(2) "Organizations" means organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701g, and 23701l of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations. (Ord. 4395, 1986; Ord 4073, 1980; Ord. 4002 §1, 1979; Ord. 3858, 1976.)

9.26.020 Bingo Permitted.

Organizations are hereby permitted to conduct bingo within the City of Santa Barbara provided that it is conducted in accordance with the limitations contained in Section 326.5 of the Penal Code. (Ord. 4002 §1, 1979; Ord. 3858, 1976.)

Chapter 9.30

AMBULANCE SERVICE

Sections:

9.30.010 Purpose.
9.30.020 Adoption and Applicability.
9.30.030 Penalty.

9.30.010 Purpose.

It is the purpose of this chapter, among other things, to protect the health, safety and public welfare of the City of Santa Barbara by the reasonable regulation of ambulances in the City. The County of Santa Barbara, hereinafter referred to as "County", adopted Ordinance No. 2881 (Chapter 5 of the Santa Barbara County Code) on August 23, 1976, which provides for the regulation and licensing of ambulance service. Pursuant to said Ordinance, the County adopted the Emergency Medical Response Manual, hereinafter referred to as "EMRM." The City desires uniform regulation of ambulance service within both the City and County of Santa Barbara. The City further desires to adopt the provisions of County Ordinance No. 2881 and regulations adopted pursuant to said Ordinance and to transfer the licensing and regulation of ambulance service to the County. (Ord. 3935 §1, 1978.)

9.30.020 Adoption and Applicability.

Santa Barbara County Ordinance No. 2881 (Chapter 5 of the Santa Barbara County Code) and regulations promulgated pursuant thereto, which are on file with the City Clerk, are adopted by the City and shall apply within the territorial limits of the City. The City further requires that any licensee for ambulance service under this chapter supply adequate insurance and agree to hold harmless and indemnify the City, its officers or employees from any damages, claims, liabilities, costs, suits or other expenses resulting from its operations that have been licensed under this chapter.

The City desires to adopt the EMRM and grant the County the authority to make amendments thereto. Any and all such amendments, as and when they occur, shall be effective within the City upon the date of receipt by the City Clerk of a certified copy of the amendment, but City can reject any such amendment if the City Council passes a resolution rejecting any such amendment within thirty (30) days after receiving the aforementioned certified copy of any such amendment. Any such amendment shall be null and void in the City after such a rejecting resolution is approved. (Ord. 3935 §1, 1978.)

9.30.030 Penalty.

Any violation of this chapter is declared to be a misdemeanor and any such violation shall be punish-able by a fine not exceeding five hundred dollars ($500.00), or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Every day that any violation of this chapter shall continue shall constitute a separate offense. (Ord. 3935 §1, 1978.)

Chapter 9.32

UNLAWFUL AREAS TO PLAY GOLF

Section:
9.32.010 Unlawful Areas to Play Golf.

9.32.010 Unlawful Areas to Play Golf.

It shall be unlawful for any person to play or practice golf on any public park or public place in the City except in areas specifically designated for such play or practice by the Parks Director. (Ord. 3837, 1976.)

Chapter 9.34

DISCHARGE OF FIREARMS

Sections:
9.34.010 Guns - Air, Spring and Bow.
9.34.020 Discharge of Firearms - Authorization of City Council.
9.34.030 Unlawful Use of a Firearm - Destruction.

9.34.010 Guns - Air, Spring and Bow.

No person shall discharge upon any public street or in any public place in the City, any gun by means of which any missile is projected by means of a spring, bow or compressed air. (Ord. 3763 §2, 1975.)

9.34.020 Discharge of Firearms - Authorization of City Council.

It shall be unlawful to discharge any firearm of any description in the City of Santa Barbara; provided, that this section shall not be construed to prohibit:

A. Any Peace Officer or other person duly constituted and authorized by law to discharge a firearm when lawfully defending person or property; nor

B. Any citizen to discharge a firearm within any building or structure expressly constructed for and commonly used as a rifle or pistol range; and provided further, that any person desiring to operate any mechanical amusement device, which in its operation involves the discharge of any firearm, shall apply to the City Council in writing for such authorization. (Ord. 3763 §2, 1975.)

9.34.030 Unlawful Use of a Firearm - Destruction.

A. A firearm of any nature used in violation of Section 9.34.020 is, upon a conviction of the defendant, or upon a plea of no contest or guilty to the violation, or upon voluntary payment of the bail or fine by the defendant without an appearance in court, or upon a juvenile court finding that the offense which would be a violation of Section 9.34.020 if committed by an adult was committed by a juvenile, a nuisance. A finding that the defendant was guilty of a violation of Section 9.34.020 but was insane at the time the offense was committed is a conviction for the purposes of this Section.

B. A firearm determined to be a nuisance pursuant to the provisions of Subsection A hereof shall be destroyed or sold at public auction in accordance with the provisions of California Penal Code Section 12028. (Ord. 4908, 1995; Ord. 4464, 1987.)

Chapter 9.36

SALE OF FIREARMS

Sections:

9.36.010	**Definitions.**
9.36.020	**Purpose of Chapter.**
9.36.030	**Enforcement.**
9.36.040	**Certain Persons Not Permitted to Sell, Transfer, Etc.**
9.36.090	**Delivery of Firearms to Minors Prohibited.**
9.36.100	**Criminal Prosecution for Violation of Section 9.36.090 - Admissible Evidence.**
9.36.110	**Refusal to Sell Without Bona Fide Evidence of Age.**
9.36.120	**False Evidence of Age.**
9.36.130	**Sale of Ammunition to Certain Persons Prohibited - Exception.**
9.36.160	**Dealings Without Permit Prohibited.**
9.36.170	**Permit Application - Form - Approval.**
9.36.180	**Permit Application - Fee.**
9.36.190	**Permit Application - Issuance or Denial - Appeal.**
9.36.200	**Issuance - Approval of Police Chief.**
9.36.210	**Duration - Grounds for Revocation.**
9.36.220	**Persons to Whom Permits May Not be Issued.**
9.36.230	**Prior Revocations of Permit - Application.**
9.36.240	**Permit Nontransferable.**
9.36.250	**Permit Suspension for Violation.**

9.36.010 Definitions.

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

(1) "Business" means retail and not wholesale business.

(2) "Convicted" means entry of plea of guilty, or found guilty by court or jury.

(3) "Firearms" means any gun, rifle, shotgun, pistol, revolver or any other device which projects a missile by an explosive type of ammunition, including but not limited to firearms capable of being concealed upon the person.

(4) "Permit" means any permit issued under and as provided in this chapter.

(5) "Permittee" means any person issued a permit under the provisions of this chapter. (Ord. 3124 §1, 1966; prior Code §17.1.)

9.36.020 Purpose of Chapter.

This chapter is an exercise of the Police power of the City for the protection of the safety, welfare, health, peace and morals of the peoples of this City, and to eliminate the evils of unregulated and unlawful selling at retail of firearms as a business. (Ord. 3124 §2, 1966; prior Code §17.6.)

9.36.030 Enforcement.

The Tax and Permit Inspector and the Police Department are hereby designated the enforcing agencies of this chapter. (Ord. 3763 §4, 1975; Ord. 3124 §3, 1966; prior Code §17.7.)

9.36.040 Certain Persons Not Permitted to Sell, Transfer, Etc.

No permittee under this chapter shall permit anyone, to whom the transfer of any firearm is prohibited, to sell, deliver, lease, rent or in any manner transfer any firearm. (Ord. 3124 §4, 1966; prior Code §17.8.)

9.36.090 Delivery of Firearms to Minors Prohibited.

No person engaged in the business of selling or otherwise transferring firearms shall sell, deliver, lease, rent or in any manner transfer, furnish, give or cause to be sold, delivered, leased, rented, transferred, furnished or given any firearm to any person under the age of eighteen (18) years. Members of businessman's immediate family are excepted. (Prior Code §17.9.)

9.36.100 Criminal Prosecution for Violation of Section 9.36.090 - Admissible Evidence.

In any criminal prosecution or proceeding for violation of Section 9.36.090, proof that the defendant permittee, or his agent, demanded and was shown immediately prior to the sale or transfer of any firearm bona fide documentary evidence of sufficient age and identity shall be a defense to the prosecution. A bona fide identity card issued by a Federal, State, County or municipal government or subdivision or agency thereof, including but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or identification card issued to a member of the armed forces, shall be deemed to be documentary evidence for the purpose of this chapter. (Ord. 3124 §5, 1966; prior Code §17.10.)

9.36.110 Refusal to Sell Without Bona Fide Evidence of Age.

A permittee under this chapter may refuse to sell, or otherwise transfer, a firearm to any person who is unable to produce bona fide documentary evidence that he has attained the age of eighteen (18) years. (Ord. 3124 §6, 1966; prior Code §17.11.)

9.36.120 False Evidence of Age.

No person shall offer to any permittee under this chapter, his agent or employee, any documentary evidence of age or identity which is false, fraudulent or not actually his own for the purpose of procuring any firearm or ammunition therefor, the sale or other transfer of which would be prohibited under this chapter by the permittee. (Ord. 3124 §7, 1966; prior Code §17.12.)

9.36.130 Sale of Ammunition to Certain Persons Prohibited - Exception.

No person, whether or not such person is engaged in the business of selling ammunition for firearms, shall sell ammunition for any firearm to any person to whom the sale or transfer of any firearm using such ammunition is prohibited under this chapter. Minors with written consent of their parent or legal guardian are excepted. (Prior Code §17.13.)

9.36.160 Dealings Without Permit Prohibited.

No person without holding a current permit as provided in this chapter shall engage in the business of selling or otherwise transferring or advertising for the sale of any firearms. (Ord. 3124 §9(part), 1966; prior Code §17.14.)

9.36.170 Permit Application - Form - Approval.

An application for the permit required by the preceding section shall be made on a form obtainable from, and filed with, the Tax and Permit Inspector, together with the application fee required by Section 9.36.180. Applications shall be in the form prescribed by the Chief of Police and Tax and Permit Inspector. Each application shall be approved by the Chief of Police prior to issuance of a permit. (Ord. 3763 §4, 1975; Ord. 3124 §9(part), 1966; prior Code §17.15.)

9.36.180 Permit Application - Fee.

An application fee of twenty-five dollars ($25.00) is required to accompany each application required by Section 9.36.170 to cover the costs of investigation and processing. Such fee is not refundable in the event the permit required by this chapter is denied. The application fee is to be paid to the Tax and Permit Inspector of the City. Business establishments having more than one (1) location shall be required to pay one (1) application fee only for all locations. (Ord. 3124 §9(part), 1966; prior Code §17.16.)

9.36.190 Permit Application - Issuance or Denial - Appeal.

An application for a permit required by this chapter shall be deemed approved, unless written notice is deposited in the regular course of mails within sixty (60) days of the filing of the application in the Office of the Tax and Permit Inspector to the applicant, that the application is denied. In the event that an application is denied, the applicant may appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3763 §4, 1975; Ord. 3124 §9(part), 1966; prior Code §17.17.)

9.36.200 Issuance - Approval of Police Chief.

Upon approval of the application by the Chief of Police or upon approval as provided in Section 9.36.190, the Tax and Permit Inspector shall issue a permit; provided, that all applicable license fees have been paid by the applicant. (Ord. 3763 §4, 1975; Ord. 3124 §9(part), 1966; prior Code §17.18.)

9.36.210 Duration - Grounds for Revocation.

Permits required by this chapter shall be effective for one (1) year, and shall be subject to renewal annually upon application thirty (30) days prior to date of expiration, and approval by the Chief of Police. A renewal fee of ten dollars ($10.00) shall be required with each such application. Any permit issued pursuant to this chapter may be revoked by the Tax and Permit Inspector upon recommendation of the Chief of Police for breach of any of the following conditions:

(1) The business shall be carried on only on premises designated in the permit;

(2) The permit or a copy of the permit, certified by the issuing authority, shall be displayed on the premises where it can easily be read;

(3) No pistol or revolver shall be delivered unless all of the following conditions are complied with:

(a) Within five (5) days of the application for the purchase,

(b) Unless the same shall be unloaded and securely wrapped, and

(c) Unless the purchaser either is personally known to the seller or shall present bona fide documentary evidence of his identity;

(4) No pistol or revolver or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside;

(5) The happening of any event or the performance of any subsequent act which would render the permittee a person to whom a permit cannot be issued in the first instance;

(6) The misrepresentation of a material fact by any applicant in obtaining any permit. (Ord. 3763 §4, 1975; Ord. 3383 §1, 1969; Ord. 3124 §9(part), 1966; prior Code §17.19.)

9.36.220 Persons to Whom Permits May Not be Issued.

In no event shall a permit required by this chapter be issued to any of the following persons:

(1) Persons who are prohibited from possessing firearms capable of being concealed upon the person under the provisions of Section 12021 of the State Penal Code;

(2) Anyone convicted of any violation of any provision of the law of the State dealing with the unlawful use of narcotic, hypnotic or dangerous drugs or under similar laws of the United States;

(3) Anyone not of good moral character;

(4) Anyone under the age of twenty-one (21) years. (Ord. 3124 §9(part), 1966; prior Code §17.20.)

9.36.230 Prior Revocations of Permit - Application.

Application for permits may not be made by any person who has had a permit revoked within three (3) years of the date of the application, nor shall any application be made by any person if any other person whose permit has been revoked within three (3) years has a financial interest in excess of twenty-five percent (25%) in the business for which the application is made. (Ord. 3124 §9(part), 1966; prior Code §17.21.)

9.36.240 Permit Nontransferable.

No permit issued under the provisions of this chapter shall be transferable to any person. No person shall attempt or purport to effect such a transfer. (Ord. 3124 §9(part), 1966; prior Code §17.22.)

9.36.250 Permit Suspension for Violation.

Upon any violation of Section 9.36.040, 9.36.090, or 9.36.130, the Tax and Permit Inspector upon recommendation of the Chief of Police may suspend any permit issued under this chapter, for a period of seven (7) days upon the first violation and for twenty-one (21) days upon a second violation. Upon any third or subsequent violation, the permit may be revoked. (Ord. 3124 §9(part), 1966; prior Code §17.23.)

Chapter 9.39

ESCORT BUREAUS AND INTRODUCTORY SERVICES

Sections:

9.39.010	**Definitions.**	**9.39.080**	**Escorts, Permit Required.**
9.39.020	**Escort Bureau and Introductory Service, Permit Required.**	**9.39.090**	**Permit Identification Card.**
9.39.030	**Permit Term.**	**9.39.100**	**Escort Permit; Renewal Application.**
9.39.040	**Permit Renewal.**	**9.39.110**	**Prohibited Activities.**
9.39.050	**Exception.**	**9.39.120**	**Sale or Transfer.**
9.39.060	**Application for Escort Bureau or Introductory Service Permit; Contents; Renewals; Required Fees.**	**9.39.130**	**Change of Location or Name.**
		9.39.140	**Records of Escort Transactions.**
		9.39.150	**Suspension or Revocation of a Permit.**
9.39.070	**Employment and Activities of Escorts.**	**9.39.160**	**Fees.**
		9.39.170	**Appeal.**

9.39.010 Definitions.

For the purpose of this chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent from the context that a different meaning is intended.

A. "Escort" means any person who, for pecuniary compensation:

(1) escorts, accompanies or consorts with other persons to, from or about social affairs, entertainments, places of public assembly or places of amusement located or situated within the City of Santa Barbara; or

(2) escorts, accompanies or consorts with other persons in or about any place or public or private resort or within any private quarters located or situated within the City of Santa Barbara; or

(3) escorts, accompanies or consorts with other persons in or about any business or commercial establishment, or part or portion thereof, located or situated within the City of Santa Barbara.

B. "Escort bureau" means any business, agency or self-employed or independent escort who, for pecuniary compensation, furnishes or offers to furnish escorts.

C. "Introductory service" means a service offered or performed by any person for pecuniary compensation, the principal purpose of which is to aid persons to become socially acquainted or to otherwise assist persons to meet for social purposes, or which service is generally known or should be known by the offering or performing party to be used by the recipients thereof for the purpose of obtaining information about other persons to be used for social purposes.

D. "Pecuniary compensation" means any commission, fee, gratuity, hire, profit, reward, or any other form of consideration.

E. "Profit interest" means any interest or share in the present or prospective profit of an escort bureau or introductory service. (Ord. 4127, 1981.)

9.39.020 Escort Bureau and Introductory Service, Permit Required.

It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located or situated within the City of Santa Barbara, the activities of an escort bureau or introductory service, unless there has been granted to such person a valid permit, pursuant to the provisions of this chapter. A separate permit shall be required for each location within the City of Santa Barbara at which an escort bureau or introductory service is to be established. (Ord. 4127, 1981.)

9.39.030 Permit Term.

The term of an Escort Bureau, Introductory Service or Escort Permit, unless sooner suspended or revoked, shall be for a period of one (1) year. (Ord. 4127, 1981.)

9.39.040 Permit Renewal.

An Escort Bureau, Introductory Service or Escort Permit, issued pursuant to the provisions of this chapter, which has not been suspended or revoked, may be renewed for a period of not to exceed one (1) year on written application to the Police Chief made at least ninety (90) days prior to the expiration date of the current valid permit. (Ord. 4127, 1981.)

9.39.050 Exception.

The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to a person in the lawful business of an employment agency licensed under the laws of the State of California. (Ord. 4127, 1981.)

9.39.060 Application for Escort Bureau or Introductory Service Permit; Contents; Renewals; Required Fees.

A. Any person desiring to obtain a permit, or renew an existing permit, to operate an escort bureau or an introductory service, shall make application to the Police Chief or his designated representative. Prior to submitting such application for a permit or renewal of a permit, a nonrefundable fee shall be paid to the Finance Department. The Finance Department shall issue a receipt showing that such application or renewal fee has been paid. The receipt, or a copy thereof, shall be supplied to the Police Chief at the time such application is filed. Permit issuance or renewal fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter of this Code.

B. Neither the filing of an application for a permit or renewal thereof, nor payment of an application or renewal fee, shall authorize the operation of an escort bureau or introductory service until such permit has been issued by the Police Chief.

C. Each applicant for an Escort Bureau or Introductory Service Permit, or renewal thereof, shall furnish the following information:

(1) The present or proposed address where the business is to be conducted;

(2) The name under which the business will be conducted;

(3) Any other names used by the applicant;

(4) The present residence and business addresses and telephone numbers of the applicant;

(5) Each residence and business address of the applicant for the five (5) year period immediately preceding the date of filing of the application and the inclusive dates of each such address;

(6) California driver's license or identification number and social security number of the applicant;

(7) Acceptable written proof that the applicant is at least eighteen (18) years of age;

(8) The applicant's height, weight, color of eyes and hair and date of birth;

(9) Two (2) photographs of the applicant, at least two (2) inches by two (2) inches in size, taken within the six (6) month period immediately preceding the date of the filing of the application;

(10) The business, occupation or employment history of the applicant for the three (3) year period immediately preceding the date of the filing of the application;

(11) The permit history of the applicant, for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant, in previously operating in this or any other city, county, state, or territory, has ever had any similar license or permit issued by such entity revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason or reasons therefor;

(12) All criminal convictions of the applicant, including ordinance violations but excepting minor traffic offenses, stating the date, place, nature and sentence of each such conviction;

(13) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and date of birth of each of the partners, including limited partners and profit interest holders. If the applicant is a limited partnership, the applicant shall furnish a copy of the certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall also apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee will be charged;

(14) In the event the applicant is not the owner of record of the real property upon which the escort bureau or introductory service is or is to be located, the application must be accompanied by a notarized statement from the owner of record of the property acknowledging that an escort bureau or introductory service is or will be located on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name and address of the owner of record of the property, as well as a copy of the lease or rental agreement pertaining to the premises in which the escort bureau or introductory service is or will be located;

(15) A description of the service to be provided;

(16) The true name and residential address of all persons employed or intended to be employed as escorts;

(17) Such other identification and information as the Police Chief may reasonably require.

D. The applicant, if an individual, or a designated responsible managing officer if the applicant is a partnership or corporation, shall personally appear at the Police Department of the City of Santa Barbara and produce proof that the required application or renewal fee has been paid and shall present the application containing the information and supporting documentation required by the Police Chief.

E. The Police Chief may require the applicant, if an individual, or the designated responsible managing officer if the applicant is a partnership or corporation, to appear in person at the Police Department in order to be photographed and fingerprinted.

F. When any change occurs regarding the written information submitted to the Police Chief pursuant to Section 9.39.060, the applicant or permit holder, as the case may be, shall give written notification of such change to the Police Chief within twenty-four (24) hours after such change.

G. The Police Chief, or his representative, shall, within sixty (60) days after the date of the filing of the application, render a written decision, as to approval or denial of the application for the permit or renewal thereof.

H. The Police Chief shall grant the permit, or renewal thereof, only if he finds that all of the following requirements have been met:

(1) The required fees have been paid;

(2) The application conforms in all respects to the provisions of this chapter;

(3) The applicant has not knowingly made a material misrepresentation of fact in the application;

(4) The applicant, if an individual; or any of the directors, officers, or stockholders holding more than five percent (5%) of the stock of the corporation; or any of the partners, including limited partners, the holder of any lien of any nature or profit interest holder, manager or other person principally in charge of the operation of the existing or proposed escort bureau or introductory service; or an individual employed or contracted with to be an escort or to provide escort services; has not been convicted or found guilty in a court of competent jurisdiction by final judgment within the last five years of an offense involving:

(a) prostitution, pimping or pandering;

(b) the presentation, exhibition or performance of an obscene production, motion picture or play;

(c) lewd conduct;

(d) larceny or extortion; or

(e) the use of force and violence upon another person.

(5) The escort bureau or introductory service, as proposed by the applicant, would comply with all applicable City of Santa Barbara, county and state laws, including but not limited to health, zoning, fire and safety requirements and standards; and

(6) The applicant, manager or other person principally in charge of the operation of the business is at least eighteen (18) years of age.

I. If the Police Chief does not find that all of the requirements set forth in Subsection H of Section 9.39.060 have been met, he shall deny application for the permit or renewal thereof. In the event the application for the permit or renewal thereof is denied by the Police Chief, written notice of such denial shall be given to the applicant, specifying the ground or grounds of such denial. Notice of denial of the application for the permit, or renewal thereof, shall be deemed to have been served if in fact it is personally served on the applicant or when deposited in the United States mail with the postage prepaid and addressed to the applicant at an address set forth in the application for the permit or renewal thereof. Any applicant whose application for an Escort Bureau or Introductory Service Permit, or renewal thereof, has been denied by the Police Chief, may appeal such denial to the Board of Fire and Police Commissioners. (Ord. 4127, 1981.)

9.39.070 Employment and Activities of Escorts.

A. No holder of an Escort Bureau or Introductory Service Permit shall employ as an escort any person under eighteen (18) years of age.

B. No holder of an Escort Bureau or Introductory Service Permit shall furnish any escort or introductory service to, or accept employment from any patron, customer or person to be escorted, who is under eighteen (18) years of age, except at the special instance and request of a parent, guardian or other person in lawful custody of the person upon whose behalf the escort or introductory service is engaged. (Ord. 4127, 1981.)

9.39.080 Escorts, Permit Required.

It shall be unlawful for any person to act as an escort unless there has been provided to such person a valid permit, pursuant to the provisions of this chapter. Such permit shall be issued to the address of the employer of the escort, who must in turn also hold a valid Escort Bureau or Introductory Service Permit issued by the City of Santa Barbara pursuant to the provisions of this chapter. (Ord. 4127, 1981.)

9.39.090 Permit Identification Card.

Each escort permit holder shall be issued an identification card which will also serve as an Escort Permit. The permit holder shall carry such card upon his or her person when acting as an escort and produce the same for inspection upon request. Each permit holder shall immediately surrender, to the Police Chief, any Escort Permit issued by the City of Santa Barbara upon the suspension, revocation, or expiration of such permit, or upon leaving employment as an escort. (Ord. 4127, 1981.)

9.39.100 Escort Permit; Renewal Application.

A. Any person desiring to obtain a permit, or renewal of an existing permit, to act as an escort, shall make application to the Police Chief or his designated representative. Prior to submitting such application for a permit or renewal of a permit, a nonrefundable fee shall be paid to the Finance Department. The Finance Department shall issue a receipt showing that such permit application or renewal fee has been paid. The receipt, or a copy thereof, shall be supplied to the Police Chief at the time such application is filed. Permit fees required under this chapter shall be in addition to any license, permit or fee required under any other section of this Code.

B. Neither the filing of an application for a permit, or renewal thereof, nor the payment of an application or renewal fee, shall authorize a person to act as an escort until such permit has been granted or renewed.

C. Each applicant for an Escort Permit, or renewal thereof, shall furnish the information required by Subsections C (1) through (12) of Section 9.39.060 and shall, in addition, furnish the following information:

(1) Satisfactory evidence that the applicant is employed, or has been offered employment, by an escort bureau or introductory service holding a valid permit issued by the City of Santa Barbara, including the name and address of the employer or prospective employer and the fact that such employment or continued employment is contingent upon the issuance of said permit; and

(2) Such other identification and information as the Police Chief may reasonably require.

D. The Police Chief may require the applicant to appear in person at the Police Department in order to be photographed and fingerprinted.

E. The Police Chief, or his representative, shall, within sixty (60) days after the date of the filing of the application, render a written approval or denial of the application for the permit or renewal thereof.

F. The Police Chief shall grant the permit, or renewal thereof, only if he finds that all of the requirements of Subsections H (1) through (3) of Section 9.39.060 have been met, and, in addition, if he finds that the following additional requirements have been met:

(1) The applicant has not had an Escort Bureau, Introductory Service or Escort Permit or other similar license or permit denied or suspended or revoked for cause by the City of Santa Barbara or any other city or county located in or out of this state within the one (1) year immediately preceding the date of the filing of the application;

(2) The applicant is at least eighteen (18) years of age;

(3) The applicant has not been convicted or found guilty in a court of competent jurisdiction by final judgment within the last five (5) years of any offense referred to in Subsection H(4) of Section 9.39.060.

G. If the Police Chief does not find that all of the requirements set forth in Subsection F of this Section 9.39.100 have been met, he shall deny the application for the permit or renewal thereof.

In the event the application for the permit, or renewal thereof, is denied by the Police Chief, written notice of such denial shall be given to the applicant specifying the ground or grounds of such denial. Notice of denial of the application for the permit, or renewal thereof shall be deemed to have been served if it in fact is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at an address as set forth in the application for an Escort Permit, or renewal thereof. Any applicant whose application for an Escort Permit or renewal thereof has been denied by the Police Chief, may appeal such denial to the Board of Fire and Police Commissioners.

H. When any change occurs regarding the written information required by Subsection (c) of this Section 9.39.100, the applicant or permit holder, as the case may be, shall give written notification of such change to the Police Chief within twenty-four (24) hours after such change. (Ord. 4127, 1981.)

9.39.110 Prohibited Activities.

No holder of an Escort Permit shall escort, offer to escort or perform any activity described in this chapter to any person under eighteen (18) years of age, except at the special instance and request of the parent, guardian or other person in lawful custody of the person on whose behalf the escort or introductory service is engaged. (Ord. 4127, 1981.)

9.39.120 Sale or Transfer.

Upon the sale or transfer of any interest in an escort bureau or introductory service, the permit shall immediately become null and void. A new application shall be made by any person, firm or entity desiring to own or operate the escort bureau or introductory service. A fee as established by resolution of City Council shall be payable for each such application. Any application involving the sale or other transfer of any interest in an existing escort bureau or introductory service, as well as any permit which may there-after be granted, shall be subject to the provisions of this chapter. (Ord. 4127, 1981.)

9.39.130 Change of Location or Name.

A. A change of location of any premises or real property where a permitted escort bureau or introductory service is conducted may be approved by the Police Chief provided all requirements of this chapter and all ordinances and regulations of the City of Santa Barbara are complied with and a change of location fee as established by resolution of the City Council is deposited with the Finance Department. Application for such change shall be made within three (3) days of such change.

B. No permit holder shall operate an escort bureau or introductory service under any name or designation not specified in the permit. (Ord. 4127, 1981.)

9.39.140 Records of Escort Transactions.

Every escort bureau and introductory service shall maintain a record of every transaction whereby any escort is employed or engaged, or whereby any introductions are arranged for on behalf of any patron, customer or person. Such record shall include the following information:

(1) The date and hour of the transaction;

(2) The name, address and telephone number of the patron, customer or person requesting or employing the escort bureau or introductory service; and

(3) The name of the escort furnished or other persons who were introduced or arranged to be introduced.

Such records shall be made available to law enforcement officers, upon request, for inspection, review and copying. (Ord. 4127, 1981.)

9.39.150 Suspension or Revocation of a Permit.

If the Police Chief finds that any person holding an Escort Bureau or Introductory Service Permit under the provisions of this chapter has violated any of the provisions of this chapter or conducts such business in such a manner as would have been grounds for denial of a permit as set forth in Subsection H of Section 9.39.060, or if the Police Chief finds that any person holding an Escort Permit is engaging in behavior or actions which violate any of the provisions of this chapter or which would have been grounds for denial of a permit as set forth in Subsection F of Section 9.39.100, he may suspend or revoke the permit. No such suspension or revocation shall become effective until the permit holder has been notified in writing of the right of such permit holder to appeal the suspension or revocation. Notification of the permit holder shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the permittee at such permittee's address as set forth on the application for a permit or renewal thereof. If a timely appeal is filed, the suspension or revocation shall be stayed and shall become effective only upon decision of the Board of Fire and Police Commissioners. Otherwise the suspension or revocation shall become effective after the appeal period has expired. (Ord. 4127, 1981.)

9.39.160 Fees.

Fees for applications, permits and appeals under this chapter shall be established by resolution of the City Council. The fees for applications shall be established to defray, in part, the costs of investigations and reports required under this chapter. (Ord. 4127, 1981.)

9.39.170 Appeal.

A. Time to Appeal.

Any written decision of the Police Chief under this chapter may be appealed to the Board of Fire and Police Commissioners, but such an appeal must be filed with the Clerk of the Board of Fire and Police Commissioners within ten (10) days after notice of the decision is personally delivered or mailed to the applicant or permittee and must be accompanied by an appeal fee.

B. Notice.

The applicant or permittee shall be given notice of a hearing at least ten (10) days prior to the hearing. Such notice shall be served when it is personally delivered to the applicant or permittee or it is deposited in the United States mail with postage prepaid and addressed to the applicant or permittee.

C. Procedure.

The hearing shall be conducted in the manner set forth in Subsections C, D, E, F and I of Section 9.45.050 of this Code, but the provisions contained in this chapter shall prevail where there is any conflict. (Ord. 4127, 1981.)

Chapter 9.40

DISTRIBUTING FOOD AND DRUG SAMPLES AND ADVERTISING

Sections:

9.40.010 Distributing Food and Drug Samples.

9.40.020 With Sound Equipment.

9.40.010 Distributing Food and Drug Samples.

It shall be unlawful for any person within the limits of the City, to deposit, or cause to be deposited, upon the premises of another, without permission of the occupant, or upon any public street or place, any drug, nostrum or any article of food as a sample, or for the purpose of advertisement. (Prior Code §32.2.)

9.40.020 With Sound Equipment.

It shall be unlawful for any person whether acting as principal, agent, employee or otherwise, to operate, place, conduct or maintain upon or in any public street of and in the City, any advertising radio playing, phonograph playing, loudspeaker using, noise producing, music playing or carrying vehicle, van or wagon operated merely for advertising purposes. (Prior Code §32.3.)

Chapter 9.43

AMUSEMENT GAME ARCADES AND AMUSEMENT GAME MACHINES

Sections:

9.43.010	**Definitions.**	**9.43.060**	**Appeals.**
9.43.020	**Permit and Compliance Required.**	**9.43.070**	**Modification of Requirements.**
9.43.040	**Requirements for Operation of Amusement Game Arcade.**	**9.43.080**	**Suspension and Revocation.**
		9.43.090	**Fees.**
9.43.045	**Awards and Prizes.**	**9.43.100**	**Rules and Regulations.**
9.43.050	**Permit, Application, Issuance.**		

9.43.010 Definitions.

For the purposes of this Chapter, the following words and terms shall have the meanings indicated in this Section, unless otherwise expressly stated or the context clearly indicates a different intention:

A. AMUSEMENT GAME MACHINE. Any electronic or mechanical device which operates, or may be operated, through the exercise of skill or chance, as a game, contest, or for amusement, when such operation results from the payment or insertion of a coin, dollar bill or other thing representative of value, in any slot or receptacle attached to the device, or connected to the device or which provides access to the device.

B. AMUSEMENT GAME ARCADE. Any premises containing any combination of twenty (20) or more amusement game machines whether or not said machines constitute the primary use or an accessory use of the premises.

Any reference to "arcade" in this Chapter shall mean an amusement game arcade.

Amusement game arcade includes, but is not limited to, any premises which has twenty (20) or more amusement game machines where access or admittance to the amusement game machine or machines is allowed, upon payment of money or any other thing representative of value, whether or not such money or other thing representative of value is inserted into the machine. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.020 Permit and Compliance Required.

A. PERMIT REQUIRED. It is unlawful for any person to use or permit the use of any building or portion thereof as an amusement game arcade unless an arcade permit has been issued pursuant to this Chapter for the operation of that arcade and there is compliance with all conditions of that permit.

B. COMPLIANCE. It is unlawful for a person to violate any provision of this Chapter or any rules and regulations duly adopted pursuant thereto.

C. The permits and fees required by this Chapter shall be in addition to any other permits, licenses, fees, approvals or requirements of any other City or State law.

D. Nothing in this Chapter shall be deemed to regulate those businesses defined in Chapter 5.68, Pool and Billiard Rooms. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.040 Requirements for Operation of Amusement Game Arcade.

A. MINIMUM FLOOR AREA REQUIREMENTS. No more than one (1) amusement game machine shall be permitted in an arcade for every twenty (20) square feet of floor area.

B. AISLES REQUIRED. The aisles in arcades shall be a minimum of five (5) feet in width.

C. BICYCLE PARKING SPACES REQUIRED. Arcades shall be required to provide bicycle parking spaces as determined by the City Parking and Transportation Division and as described in administrative regulations for such parking adopted by the City Parking and Transportation Manager.

D. LIGHTING. The lighting in the arcade shall be adequate so that all places in the interior of the arcade are easily visible.

E. VISIBILITY. All amusement game machines in an arcade shall be visible from a place on the first floor of the arcade that is within fifteen (15) feet of the main entrance of the arcade.

F. TOILETS. All arcades shall have adequate toilet facilities for use by their patrons.

G. ADULT SUPERVISION. An arcade shall be supervised by a manager who is at least eighteen (18) years old and is on the premises at all times the arcade is open for business. A sign with the name of this manager must be displayed in a conspicuous place near the main entrance of the arcade while the arcade is open for business so that the sign identifies the manager for the patrons of the arcade.

H. SECURITY PLAN. An arcade must comply with a security plan that has been approved by the Chief of Police.

I. PERSONS UNDER AGE OF 16 YEARS. Persons under the age of 16 years are not permitted in arcades during regular public school hours unless they are accompanied by their parent or guardian. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.045 Awards and Prizes.

A. It shall be unlawful for any person to pay any award in cash on the results of the operation of any amusement game machine.

B. Nothing in this section shall prohibit the operation of an amusement game machine 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, ticket or other thing representative of value 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 one 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 amusement game machines occurs is the responsible party and shall maintain compliance with this section. (Ord. 4909, 1995.)

9.43.050 Permit, Application, Issuance.

A. FILING WITH TAX AND PERMIT INSPECTOR. A complete application for a permit to operate an arcade and any required fee shall be filed with the City Tax and Permit Inspector. If the application is not complete, the Tax and Permit Inspector shall return the application to the applicant and summarize in writing the inadequacies contained therein.

B. ISSUANCE REQUIRED FOR OPERATION AND POSTING OF NOTICE OF APPLICATION. Neither the filing of an application nor the payment of any fee shall authorize the operation of any arcade.

C. POSTING OF NOTICE OF APPLICATION. Upon the acceptance of a completed application by the City, the City Tax and Permit Inspector shall provide a written notice to the applicant (in a form adopted by the City for such purposes) which notice shall be prominently posted on each street frontage of the building in which the proposed arcade is to be operated.

1. The notice shall advise the public of its right to have the application determined by the Chief of Police pursuant to the procedural requirements of this Section. Said notice shall be posted and maintained on the building frontage in a manner acceptable to the Tax and Permit Inspector for a period of not less than fourteen (14) days immediately after acceptance of the completed application.

2. The notice shall state that any comments to be reviewed must be sent to the Chief of Police in writing.

D. REQUIRED INFORMATION. Each application for an arcade shall contain the following information:

1. The names, addresses and telephone numbers of all owners of the arcade and all owners and lessees of the premises on which the arcade will be located.

2. The present or proposed address where the arcade will be operated.

3. The name under which the arcade will be operated.

4. The zone in which the arcade will be operated.

5. The number of amusement game machines for which the permit is sought.

6. The square footage of the floor area of the premises in which the arcade will be located.

7. A plan of the premises where the arcade will be located. This plan shall be drawn to scale and shall show:

(a) Dimensions of premises in which amusement game machines will be located.

(b) Location and dimensions of offices, restrooms and storage areas.

(c) Areas where amusement game machines will be located.

(d) Bicycle parking spaces.

8. A proposed security plan.

9. Necessary information, including business license information, for the business to which the arcade is accessory, if applicable.

10. Such other information as the Police Chief may reasonably require.

E. REVIEW BY DEPARTMENTS. After receipt of a completed application, the Tax and Permit Inspector shall immediately submit the application to the Police, Community Development and Fire Departments and to the Parking and Transportation Division of the Public Works Department for a review of compliance with the applicable laws and regulations.

The Director of Community Development shall advise the Police Chief if the proposed operation will or will not comply with all applicable laws and regulations pertaining to zoning, building, and any required design review.

The Fire Marshal shall advise the Police Chief if the proposed operation will or will not comply with all applicable laws and regulations pertaining to fire safety.

The Parking and Transportation Division shall advise the Police Chief if the applicant's plans for the required bicycle parking are satisfactory and, if not, what steps must be taken to provide the necessary bicycle parking.

F. ACTION BY POLICE CHIEF. Applications for an Amusement Game Arcade Permit shall be determined by the Police Chief.

Within thirty (30) days of the City's acceptance of a completed application for a proposed amusement game arcade, the Police Chief shall review the information received from the Director of Community Development, Fire Chief and the Parking and Transportation Division and shall make a decision for either: 1. approval or 2. approval with restrictions or conditions, or 3. denial of the application.

If the Police Chief determines that the application would comply with all applicable laws and regulations, he or she shall grant approval or approval with the necessary conditions. If the Police Chief does not approve the arcade permit, he or she shall give the applicant written notice of the reasons for denial. No permit shall be denied without specific written findings relating to concerns for the public health, welfare, and safety relating to the applicant or the proposed location and shall explain how such concerns have not been adequately addressed by the applicant.

Any application not acted upon within 30 days of the acceptance of the completed application shall be deemed approved.

G. ISSUANCE OF PERMIT. After approval of a permit by the Chief of Police, the Tax and Permit Inspector shall issue an amusement game arcade permit if all necessary permits and licenses to conduct business have been issued and all necessary fees have been paid.

H. SPECIFIC LOCATION AND MAXIMUM NUMBER OF AMUSEMENT GAME MACHINES. An arcade permit is only valid for the premises for which it was issued and is limited to the maximum number of amusement game machines set forth in the permit.

I. TRANSFER PROHIBITED. An amusement arcade permit cannot be assigned or transferred without the written approval of the Police Chief, but the Police Chief shall not unreasonably withhold such approval. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.060 Appeals.

A. APPEAL. All decisions of the Police Chief pursuant to this Chapter are appealable to the Board of Fire and Police Commissioners. Such appeal shall be in writing and filed with the Commission pursuant to the provisions of Section 1.30.050 of this Code.

B. APPEAL TO THE CITY COUNCIL. All decisions of the Board of Fire and Police Commissioners pursuant to this Chapter are appealable to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.070 Modification of Requirements.

A. PERMITTEE'S REQUEST FOR MODIFICATION. The Chief of Police is authorized to grant modifications of the requirements of this Chapter for a specific arcade if he or she deter-mines that the modification of those requirements would not be detrimental to the public peace, safety, or general welfare as it specifically relates to the applicant or the location of the arcade. Such modifications may contain conditions that are consistent with the above determinations. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.080 Suspension and Revocation.

The Board of Fire and Police Commissioners shall have the authority to review any arcade permit to determine if the arcade has complied with all provisions of this Chapter and any conditions of its permit. If, after written notice to the Permittee and a hearing thereon, the Board of Fire and Police Commissioners determines that the arcade Permittee has failed to so comply, the Board of Fire and Police Commissioners may suspend or revoke the arcade permit upon making specific findings with respect to the need for the suspension or revocation with regard to public health, and safety and welfare. The amusement game arcade permit holder may appeal such suspension or revocation to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.090 Fees.

Any fees for any permits, hearings or other matters related to this Chapter may be established by resolution of the City Council. (Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.100 Rules and Regulations.

The Chief of Police may adopt rules and regulations for the implementation and interpretation of this Chapter and such rules and regulations shall not be effective until approved by resolution of the City Council. Such regulations may include, but are not limited to, administrative procedures or an expedited review of license applications, administrative procedures prescribing when and under what circumstances a criminal background history check will be required of license applicants and may include regulations governing the hours of operation, noise and any required lighting at arcade locations. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

Chapter 9.45

DISPLAY OF DRUG PARAPHERNALIA

Sections:

9.45.010 Definition, Exemption.
9.45.020 Prohibition.
9.45.030 Violation, Nuisance.
9.45.040 Relevant Evidence.
9.45.050 Revocation of Business License, Permit or Other Entitlement.

9.45.010 Definition, Exemption.

A. As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

b) Water pipes.

c) Carburetion tubes and devices.

d) Smoking and carburetion masks.

e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.

f) Miniature cocaine spoons, and cocaine vials.

g) Chamber pipes.

h) Carburetor pipes.

i) Electric pipes.

j) Air-driven pipes.

k) Chillums.

l) Bongs.

m) Ice pipes or chillers.

B. Exemption. This chapter shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in subsection (11) of section 9.45.010A upon the prescription of a physician, dentist, podiatrist or veterinarian.

(2) Any physician, dentist, podiatrist or veterinarian who furnishes or prescribes drug paraphernalia described in subsection (11) of section 9.45.010A to his or her patients.

(3) Any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in subsection (11) of section 9.45.010A. (Ord. 4083, 1980.)

9.45.020 Prohibition.

A. Minors. No owner, manager, proprietor or other person in charge of any room or place of business selling, or displaying drug paraphernalia shall allow or permit any person under the age of eighteen (18) years to be, remain in, enter or visit such room or place.

B. Minors - Excluded. A person under the age of eighteen (18) years shall not be, remain in, enter or visit any room or enclosure in any place used for sale, or display of drug paraphernalia.

C. Sale and Display Rooms. A person shall not maintain in any place of business to which the public is invited the display for sale, or the offering to sell, drug paraphernalia unless within a separate room or enclosure to which persons under the age of eighteen (18) years are excluded, nor shall drug paraphernalia or any other contents in such separate rooms or enclosures be visible from outside such rooms or enclosures. Each entrance to such a room shall be sign posted in reasonably visible and legible words to the effect that persons under the age of eighteen (18) years are not permitted in such room or enclosure. (Ord. 4083, 1980.)

9.45.030 Violation, Nuisance.

A. Business License. A violation of this chapter or California Health and Safety Code Sections 11364.5, 11364.7(a) or 11364.7(b) is not punishable under Sections 1.28.010, 1.28.020 and 1.28.030 of this Code, but shall be grounds for revocation or non-renewal of any license, permit or other entitlement for the privilege of doing business that was issued by the City and shall be grounds for denial of any future license, permit or other entitlement authorizing the conduct of such business.

B. Nuisance. The violation of a provision of this chapter or California Health and Safety Code Sections 11364.5, 11364.7(a) or 11364.7(b) is hereby declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the Code of Civil Procedure of the State of California. This remedy is in addition to any other remedy or relief provided by this Code or other law. (Ord. 4218, 1983; Ord. 4083, 1980.)

9.45.040 Relevant Evidence.

A. Evidence. In determining whether an object is drug paraphernalia, a court, the Board of Fire and Police Commissioners or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of any owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

B. Standard of Proof. The degree of proof under this chapter shall be the preponderance-of-the--evidence standard. (Ord. 4083, 1980.)

9.45.050 Revocation of Business License, Permit or Other Entitlement.

A. Notice of Violation. An officer of the City authorized to enforce this chapter by the City Administrator who finds any person or business within the City of Santa Barbara operating in violation of this chapter or California Health and Safety Code Sections 11364.5 or 11364.7 shall deliver a notice to the owner, manager, proprietor or other person in apparent charge or control of any such business clearly specifying the nature of the violation and demanding that said business immediately cease and desist from violating the provisions of this chapter or Health and Safety Code Sections 11364.5 or 11364.7. After twenty-four (24) hours have elapsed after the delivery of the above notice, the City Administrator or his delegate is authorized to issue a second notice if the same or similar violations continue.

B. Revocation. If any person or business receives two (2) notices referred to in section 9.45.050A within a period of eighteen (18) months, the City Administrator or his delegate shall schedule a revocation hearing before the Board of Fire and Police Commissioners requesting the revocation of a permit, license or other entitlement to conduct such business.

C. Notice of Hearing. At least ten (10) days prior to the hearing requesting the revocation of the permit, license or other entitlement to conduct business, the City Administrator or his delegate shall give written notice to the permittee or licensee of business. Said notice shall give the time, date and place of the hearing and specify the grounds for revocation. The permittee or licensee shall be entitled to review any documentary or physical evidence that will be introduced at the hearing if such a request is made in a timely manner before the hearing.

D. Conduct of Hearing. The Board of Fire and Police Commissioners shall establish the rules for hearings conducted under this chapter.

E. Evidence. The following evidentiary rules shall apply to hearings conducted under this chapter:

(1) Oral evidence shall be taken only under oath.

(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him. If the permittee or licensee does not testify in his own behalf, he may be called and examined as if under cross-examination.

(3) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

F. Decision and Findings. The Board of Fire and Police Commissioners shall make findings relating to its decision on a revocation or denial of a permit, license or other entitlement to conduct business.

G. Revocation. If the Board of Fire and Police Commissioners makes a finding that the permittee or licensee has violated the provisions of this chapter or Health and Safety Code Sections 11364.5 or 11364.7, the permit, license or other entitlement shall be revoked for sixty (60) days and the permittee or licensee shall not be issued another such permit, license or entitlement by the City during that period of revocation. If a person or business has such a permit, license or entitlement revoked for a second time within two years, the period of the second revocation shall be six (6) months.

H. Denial of Permit. The denial of a permit, license or other entitlement under this chapter shall be appealable to the Board of Fire and Police Commissioners.

I. Final Decision. The decision and findings under this chapter of the Board of Fire and Police Commissioners are final. (Ord. 4218, 1983; Ord. 4083, 1980.)

Chapter 9.48

COMMERCIAL USE OF CITY STREETS

Section:
9.48.010 Commercial Use of City Streets.

9.48.010 Commercial Use of City Streets.

A. GENERALLY. It shall be unlawful for any person, whether acting as principal, agent, clerk, employee, or otherwise, to use any public street, public parking lot, public street furniture, or public sidewalk in the City for the purpose of selling, vending, offering for donations, offering for sale or soliciting or receiving orders for the sale of any goods, wares or merchandise.

B. SALE OF NEWSPAPERS. Notwithstanding subsection A hereof, nothing herein shall prohibit any person from selling or offering for sale newspapers, magazines and periodicals upon any of the public sidewalks of the City in the present customary and usual manner of selling and offering for sale of newspapers, magazines, and periodicals in the City.

C. EXEMPTION FOR SIDEWALK SALES, FARMERS' MARKETS, AND SIDEWALK CAFE TABLES. Notwithstanding subsection A hereof, an individual or an organization may, upon the issuance of a permit by the Director of Public Works in accordance with the requirements of this Chapter and the administrative regulations adopted pursuant hereto, use a public street or sidewalk in the City for the following limited purposes:

1. Sidewalk Sales. A retail business licensed to do business at a location within the City may conduct a sale of merchandise on a City sidewalk under the following conditions:

a. the sale occurs only on a public sidewalk immediately adjacent to the retail business; and

b. the retail business does not conduct such sidewalk sales for more than a total of ten (10) days for each calendar year provided, however, that those businesses within a two (2) block radius of a construction project which impacts pedestrian or vehicular access to the City block within which the business is located for a period exceeding fourteen (14) consecutive days may be allowed up to twenty (20) days for sidewalk sales during the year in which the construction project is undertaken.

2. Farmers' Markets. An individual or an organization may use a public street or City parking lot for the purpose of conducting a Certified Farmers' Market [as defined and provided for in Title 3, Chapter 3 of the California Code of Regulations] under the following conditions:

a. the merchandise offered for sale at the Farmers' Market is allowed to be sold at a Certified Farmers' Market; and

b. the use of the street or public parking lot is authorized by and pursuant to a written license agreement between the City and the Market sponsor, which license agreement limits the Market to a specified day or days of the week and to certain limited hours; and,

c. the vendors of merchandise at the Farmers' Market are authorized to conduct such sales by the organization sponsoring the Market and entering into the license agreement with the City.

3. Limited Nonprofit Sidewalk Sales. In connection and concurrent with a Parade or Event (as permitted and defined in Municipal Code Section 9.12.020), which Parade or Event is sponsored by a nonprofit entity (as evidenced by tax-exempt status under state and federal tax laws), a public sidewalk may be used for the limited merchandising of items or services under the following conditions:

a. the sidewalk sales may occur for a period not to exceed five (5) days in any calendar year, and the sales must be concurrent with the associated Parade or Event; and,

b. the location of any booth or table used by a sidewalk vendor under this subsection shall be at a specific location approved in advance by the City; and,

c. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization(s); and,

d. the persons conducting such sales are authorized in writing to do so by the nonprofit organization sponsoring the event; and,

e. for the purposes of this subsection, the word “concurrent” shall be defined as occurring within the same calendar week (Sunday through Saturday).

4. Sidewalk Sales in Connection with a Reserved Park Event. A public street or sidewalk immediately adjacent to a City park facility may be used for the limited merchandising of items under the following conditions:

a. the person or organization sponsoring the merchandising is a nonprofit entity, and it has reserved the adjacent park facility for an event pursuant to the requirements of Santa Barbara Municipal Code Chapter 15.05 and 15.16; and,

b. the sales occur only during the time the park is being used for the reserved event; and,

c. the persons conducting such sales are authorized in writing to do so by the nonprofit sponsoring the event; and

d. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization.

5. Sidewalk Cafe Tables Under Chapter 9.95. For the placement of sidewalk cafe tables in accordance with Santa Barbara Municipal Code Chapter 9.95.

D. SIDEWALK MERCHANDISING REGULATIONS AND PERMITS. The City Administrator, acting by and through the Director of Public Works, is hereby directed to prepare an appropriate administrative process (along with related administrative regulations) for the City's acceptance, review, and processing of applications for the issuance of sidewalk merchandising permits, as such permits are allowed by and consistent with the requirements of this Section. (Ord. 5688, 2015; Ord. 5350, 2005; Ord. 5236, 2002; Ord. 4843, 1993; Ord. 4751, 1992; Ord. 3880, 1976; Ord. 3852, 1976; prior Code §32.23.)

Chapter 9.50

PROHIBITION OF ABUSIVE PANHANDLING

Sections:

9.50.010 Purpose.
9.50.020 Definitions.
9.50.030 Abusive Panhandling Prohibited; Specific Locations Where Active Panhandling is Restricted.
9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.
9.50.050 Penalty for Abusive Panhandling.

9.50.010 Purpose.

In order to protect and promote the rights of the general public to be free from inappropriate conduct and from the intimidating physical confrontations associated with panhandling, the City Council finds that there is a need to adopt a City ordinance which imposes reasonable and specific time, place, and manner limitations on those forms of inappropriate and unlawful conduct which may be associated with abusive and active panhandling. At the same time, the Council seeks to properly and duly recognize, as well as protect to the fullest extent possible, the First Amendment free speech rights of all concerned.

The Council finds that balancing the need for public safety with the need to protect constitutional rights is especially critical in certain popular retail and visitor-serving areas of the City. Specifically, Cabrillo Boulevard, lower Milpas Street, and certain blocks of State Street (those within the City Central Business District) are popular public gathering spaces and are often crowded with members of the public and visitors to the Santa Barbara area. Moreover, these areas provide only limited public amenities, such as public seating and outdoor dining areas, and members of the public should be free to use those areas without fear of coercive panhandling with its attendant risk of fraud, intimidation and violence. The Council further finds that, because these areas of Santa Barbara often have thousands of visitors each day and because there is limited public seating and gathering areas available within these blocks of these streets, it is necessary and appropriate to provide panhandling regulations which prevent some persons from monopolizing the use of a public bench or a public seating area, as well as nearby sidewalk areas, for active panhandling. There is therefore a necessity for the City Council to adopt regulations which provide for the shared and reasonable use of these public facilities by all members of the public, especially the elderly and persons with special access needs.

The City Council further finds that panhandling near automated bank teller machines is particularly problematic because persons who use such machines may have large quantities of cash in their possession and generally feel vulnerable to attack or intimidation. Likewise, active panhandling on buses and other forms of public transportation threatens the person being solicited because they are in a confined space with no means of leaving the area in order to avoid being panhandled.

The City Council finds that these panhandling regulations will not prevent those persons who wish to solicit alms or charitable donations from appropriately using public benches and public seating facilities within these areas of the City for temporary respite purposes, nor will these panhandling regulations impact the content of any protected forms of expressive statements made by a panhandler or otherwise improperly restrict anyone's First Amendment rights.

The City Council also finds that these panhandling regulations have been demonstrated, by careful mapping of the regulated areas which has been considered by Council, to leave open ample alternative locations within the City for active and passive panhandling. Active panhandling on or near public benches and seating areas is prohibited only in the most crowded and intensely used areas of the City's commercial districts, and even with those areas many areas are open for active and passive panhandling. (Ord. 5689, 2015; Ord. 5499, 2009.)

9.50.020 Definitions.

The following words or phrases as used in this Chapter shall have the following meanings:

A. Panhandling.

1. Forms of Panhandling. Panhandling may occur in two forms as follows:

a. Active Panhandling. Any verbal request made by one person to another person seeking a direct response of an immediate donation of money or other item of value.

b. Passive Panhandling. The act of only passively displaying a sign or using any other non-verbal indication that a person is seeking donations without addressing a verbal request or solicitation to any specific person, other than in response to an inquiry from that person.

B. Donation. A gift of money or other item of value and including the purchase of an item for an amount far exceeding its value under circumstances where a reasonable person would understand that the purchase is in substance a gift.

C. Abusive Panhandling. To do one or more of the following acts while engaging in panhandling or immediately thereafter:

1. Blocking or impeding the passage or the free movement of the person panhandled;
2. Following the person panhandled by proceeding behind, ahead or alongside of him or her after the person panhandled declines to make a donation;
3. Threatening, either by word or gesture, the person panhandled with physical harm or an assault;
4. Abusing the person being panhandled with words which are offensive and inherently likely to provoke an immediate violent reaction;
5. Touching the person being panhandled without that person's consent; or
6. Engaging in Active Panhandling in any of the prohibited places or under any of the circumstances specified in subparagraph B of section 9.50.030 hereof. (Ord. 5499, 2009.)

9.50.030 Abusive Panhandling Prohibited; Specific Locations Where Active Panhandling is Restricted.

A. Abusive Panhandling Prohibited. Abusive Panhandling is unlawful and prohibited entirely within the city of Santa Barbara.

B. Active Panhandling Restricted. Active Panhandling is prohibited when the person being panhandled is in any of the following locations:

1. Waiting at a bus stop;
2. In a vehicle on a public street or alleyway;
3. In a City parking lot or parking structure without regard to whether the person is in a vehicle or not;
4. Within twenty-five feet of an outdoor dining area of a restaurant or other dining establishment serving food for immediate consumption;
5. Within fifty feet of an automated bank teller machine;
6. Within twenty-five feet of a queue of persons waiting to gain admission to a place of business or to a vehicle, or waiting to purchase an item or admission ticket; or
7. On buses or other public transportation vehicles. (Ord. 5689, 2015; Ord. 5499, 2009.)

9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.

Active Panhandling is prohibited while seated on or otherwise using a public bench or seating area (including any landscape planter or other public street furniture which can be sat upon), and within twenty-five feet of such benches and seating areas, within the following areas of the City:

1. **State Street.** On either side of State Street from the 400 block to the 1200 block; or
2. **Milpas Street.** Either side of Milpas Street from the 00 block South to the 200 block North; or
3. **Cabrillo Boulevard.** Cabrillo Boulevard between Castillo Street and Milpas Street. (Ord. 5689, 2015; Ord. 5499, 2009.)

9.50.050 Penalty for Abusive Panhandling.

Any person who engages in abusive panhandling as defined herein shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one thousand dollars ($1000) or be imprisoned for a period not to exceed six months, or both. Other violations of this chapter shall be prosecuted in accordance with the requirements of Santa Barbara Municipal Code Section 1.28.010. (Ord. 5499, 2009.)

Chapter 9.60

CITY BUILDINGS AND FACILITIES

Section:
9.60.010 City Buildings and Facilities - Nighttime Closure.

9.60.010 City Buildings and Facilities - Nighttime Closure.

A. ENTERING AND REMAINING AFTER CLOSING TIME. No person shall enter or remain in any City building or facility (or upon the grounds or premises thereof) when the same is closed to the public unless such person is authorized to do so by the City Administrator.

B. CLOSING HOURS. The City Administrator is authorized to determine appropriate nighttime closing hours for all City buildings and facilities other than City parks and park facilities, City recreational facilities, and City waterfront facilities regulated pursuant to Title 15 and Title 17 respectively.

C. POSTING. The Director of Public Works shall, by appropriate signs or other means, give notice of the closing times for public buildings and facilities.

D. ACTIVITIES AFTER CLOSING. Any portion of a City building or facility in which a City-sponsored or permitted meeting or activity open to the public is being conducted or is scheduled to be conducted, shall not be considered closed to members of the public who are participants, observers and attendees of said meeting or activity, and who are within the meeting or activity portion of the building or facility being used for the meeting or activity, or any buildings, premises, or off-street parking area intended for use in connection therewith, until thirty (30) minutes after the conclusion of the meeting or activity. (Ord. 4488, 1988.)

Chapter 9.65

DISPLAY OF AEROSOL SPRAY PAINT CONTAINERS AND MARKER PENS

Section:
9.65.010 Display.

9.65.010 Display.

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers, or marker pens with tips exceeding four millimeters in width, containing anything other than a solution which can be removed with water after it dries, shall store or cause such aerosol containers or marker pens to be stored in an area viewable by, but not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens or paint containers. (Ord. 4809, 1993.)

Chapter 9.66

GRAFFITI REMOVAL AND ABATEMENT

Sections:

9.66.010	**Title.**	**9.66.060**	**Graffiti Abatement Procedures – Property Owner's Consent.**
9.66.020	**Purpose and Intent.**		
9.66.030	**Definitions.**	**9.66.070**	**Notice of Graffiti Abatement Action.**
9.66.040	**Graffiti – Public Nuisance.**	**9.66.080**	**Graffiti Abatement Action; Hearing.**
9.66.050	**Prohibition of Graffiti on Property.**	**9.66.090**	**Limitation of Liability.**

9.66.010 Title.

This Chapter shall be known as the City of Santa Barbara "Graffiti Removal and Abatement Ordinance." (Ord. 5349, 2005.)

9.66.020 Purpose and Intent.

The City Council hereby finds and declares that:

A. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property may be disregarded with impunity.

B. This perception fosters a sense of disrespect of the law that results in an increase in crime; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property.

C. Graffiti is a threat to public safety and must be quickly abated, as provided herein, to prevent its proliferation and harm to persons and property in the City as the re-application, and spread of, graffiti has been found to dramatically decrease when it is removed in a timely fashion.

D. This Chapter is intended to be consistent with Government Code sections 38772 et seq. and 53069.3 which authorize the enactment of ordinances for the use of City funds to remove graffiti from public or privately owned permanent structures located on public or privately owned real property from the city.

E. The enlistment of business and property owners in the City and their assistance, active resistance, and prior consent to allow the City to abate graffiti on their property is recognized and emphasized as a key element in combating graffiti crime.

F. It is the purpose of this Chapter to provide for a City sponsored program for the removal of graffiti from walls, pavement, structures and other improvements on both public and private property. Towards that end, the City Council hereby deems it appropriate for the Director of Public Works, acting under the supervision of the City Administrator, to utilize City funds and designate the City employees or City contractors necessary to establish a program of effective and prompt graffiti removal by the City for all real property within the City. Subject to the required appropriation of funds, this program may utilize City Public Works employees, materials, and equipment and other City resources which may be necessary to accomplish the graffiti abatement and removal purposes of the program, particularly with respect to graffiti on publicly owned property. The program shall also be made available to property owners within the City, on a cost reimbursement basis, for the removal of graffiti from private property pursuant to a standard agreement between the property owner and the City. (Ord. 5349, 2005.)

9.66.030 Definitions.

For the purposes of this Chapter, the listed terms are defined as follows:

A. Abate, or Abatement. To properly and correctly remove graffiti or the removal of graffiti.

B. Abatement Accounting. An accounting of graffiti abatement costs by the City.

C. Director. The Director of Public Works for the City of Santa Barbara.

D. Graffiti. Any inscription, word, figure, marking or design that is marked, etched, scratched, drawn, affixed, or painted on any property, including any building, structure, fixture or other improvement, whether permanent or temporary, that was not authorized in advance by the owner of such property.

E. Graffiti Abatement Action. An administrative procedure which identifies graffiti, provides notice to the owner to abate the graffiti and provides for abatement by the City in the absence of a timely response by the property owner.

F. Graffiti Abatement Notice. Written notice informing the property owner that graffiti exists on his/her/their property and that it must be removed within three (3) days or the City will remove it.

G. Graffiti Abatement Order. An order by the Director that graffiti exists on the property and that it must be abated.

H. Graffiti Implement. An aerosol type paint container, etching cream, a felt tip marker, or any device (including a sticker) or material capable of being used to create a visible mark at least one eighth (1/8) of an inch in width, or visible from five or more feet away.

I. Property Owner. Any one of the legal owner(s), if multiple owners, or any person as shown on the latest equalized tax assessment roll(s) of the affected property. If designated in writing, the owner's authorized agent or any person who may be in possession of, or who has a right to possess such property. (Ord. 5349, 2005.)

9.66.040 Graffiti - Public Nuisance.

Pursuant to the authority of California Government Code Section 38771, graffiti, whether on public property or on private property, is hereby declared a public nuisance in the City. (Ord. 5349, 2005.)

9.66.050 Prohibition of Graffiti on Property.

It shall be unlawful for the owner of any real property within the City, whether public or private, to allow graffiti to remain in place on such property or to maintain graffiti that has been placed upon such property. (Ord. 5349, 2005.)

9.66.060 Graffiti Abatement Procedures - Property Owner's Consent.

A. Graffiti Removal by Public Works as Authorized by the Property Owner. With the prior written consent of a property owner and upon an agreement regarding any necessary reimbursement by the owner to the City, the Director may immediately remove any graffiti he or she determines to be in violation of Section 9.66.050 of this Chapter.

B. Standard Consent/Release Forms – Agreement to Pay for Abatement. In order to accomplish the purposes of this Section, the Director shall prepare and distribute to property owners within the City a standard City consent/release and reimbursement agreement (as prepared and approved by the City Attorney.) The consent/release and reimbursement agreement shall be sufficient for the purposes of authorizing graffiti abatement removal on that owner's property by work crews designated by the City for the purposes of entering the property to abate the graffiti. The agreement shall also contractually commit the property owner to reimburse the City for the graffiti abatement costs incurred.

As a pre-condition for the City's removal of graffiti, the property owner shall have provided the City with a fully-executed copy of the standard City release/consent and reimbursement agreement for each property owned by such owner(s). The prior consent/release and reimbursement agreement may be revoked or cancelled by the owner at any time by notifying the Director in writing. The standard release/consent and reimbursement agreement shall provide that the property owner agrees to be responsible to the City for the costs of graffiti abatement by the City in accordance with a standard graffiti abatement cost schedule to be made readily available by the City for review by a property owner.

After the graffiti is abated by the City, the City Finance Director will send the owner an itemized bill and an abatement accounting for the costs of the graffiti abatement. The property owner shall than pay the City the amount set forth in the abatement accounting within thirty (30) days of the date of the mailing.

C. Properties for Which the Property Owner Has Not Consented or Refuses to Consent. If the Director is otherwise unable to obtain consent from the property owner or if the property owner does not abate the graffiti voluntarily in accordance with the requirements of this Chapter, the Director may proceed with a graffiti abatement action as set forth in Section 9.66.070.

D. Graffiti on Public Property. Where property defaced by graffiti is owned by a public entity other than the City, the Director shall cause removal of the graffiti only after securing the consent of an authorized representative of the public entity that has jurisdiction over the property. However, any public entity may provide the City with a general standard consent agreement applicable to some or all of that entity's property, as determined appropriate by the public entity. (Ord. 5349, 2005.)

9.66.070 Notice of Graffiti Abatement Action.

A. Initiation of Abatement Action. Whenever the Director determines that graffiti exists in violation of Section 9.66.050 and the Director has been unable to obtain the owner's consent to remove the graffiti in accordance with Section 9.66.060 and the property owner has failed to abate graffiti on the property, the Director may initiate a graffiti abatement action by causing a graffiti abatement notice to be served on the Owner as follows:

1. One copy of the graffiti abatement notice shall be posted in a conspicuous place upon the public street frontage side of the building or property at or near the place of the graffiti.

2. One copy of the graffiti abatement notice shall be served upon each of the following by regular mail:

a. The person, if any, in real or apparent charge and control of the premises or property involved, such as a tenant or occupant; and

b. The owner of record as listed on the last equalized County assessment roll.

B. Time for Removal - Hearing Before Director. The graffiti abatement notice shall provide the property owner three (3) calendar days from the date of the graffiti abatement notice to do one of the following: 1. to remove the graffiti, or 2. to authorize the removal of the graffiti by the Director by notifying the Director in writing that he or she has consented or consents to the graffiti abatement and will reimbursement the City for the removal costs (in accordance with Section 9.66.060, or 3. the property owner may demand a hearing before the Director regarding the abatement order.

If the property owner fails to take one of these actions within the above time period of three (3) days, the property shall thereafter be subject to abatement of the graffiti by the Director in accordance with Section 9.66.080.

If no hearing is requested or if the Owner provides the City with the required consent/release and reimbursement agreement within the three (3) day period required and if the graffiti has not been removed, then the Director may immediately remove the graffiti and bill the owner for the amount to be reimbursed. (Ord. 5349, 2005.)

9.66.080 Graffiti Abatement Action; Hearing.

A. Abatement Hearing with Director. If a property owner requests a hearing pursuant to Section 9.66.070B, the Director shall provide notice of the time and place of the hearing in accordance with the notice provisions of California Government Code Section 65094 at least seven (7) days prior to the scheduled hearing date.

At the Abatement Hearing, the owner shall be entitled to present written evidence relevant to show that his or her property does not contain graffiti. Upon the conclusion of the hearing, if the Director determines that the property contains graffiti, the Director may order that the graffiti be immediately abated. The determination of the Director at the Hearing shall be final and may not be appealed.

B. Abatement After Hearing. Upon the conclusion of an abatement hearing and before ordering abatement by City designated workers, the Director shall give written notice (a “graffiti abatement order”) which notice shall be served in accordance with Section 9.66.070(A) that, unless the graffiti is removed within) two (2) calendar days from the date of the graffiti abatement order, the City shall enter upon the property and cause the removal, painting over or such other abatement of the graffiti as the Director determines appropriate.

C. Procedures for Abatement. The following procedures shall apply to actions by the Director to abate graffiti pursuant to this Section and to recover costs for abatement of graffiti on private property:

1. Abatement Action. Not sooner than the expiration of the time specified in the graffiti abatement order, the Director shall immediately implement the graffiti abatement order and utilize the City’s own forces to remove the graffiti.

Thereafter, the City Finance Director, upon the written request of the Director, shall provide an abatement accounting to the owner of the costs of the abatement action on a full cost recovery basis not later than ten (10) days from the date the abatement action is completed. The abatement accounting shall include all administrative costs incurred by the Department in abating graffiti on the property. The total amount set forth in the abatement accounting shall be due and payable by the owner within 30 days from the date of the abatement accounting.

2. Lien on the Real Property. If all or any portion of the amount set forth in the abatement accounting remains unpaid by the owner after thirty (30) days of the mailing of the abatement accounting, such portion shall constitute a lien on the property which was the subject matter of the graffiti abatement action. Such a lien shall be levied and collected by the City in accordance with Section 1.25.130 of this code as if they were a fine imposed pursuant to that Section. Property owners seeking to challenge the amount of the abatement accounting may do so at the hearing authorized by Section 1.25.130. (Ord. 5349, 2005.)

9.66.090 Limitation of Liability.

By adopting this Graffiti Abatement and Removal Ordinance and in establishing a City graffiti abatement program, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 5349, 2005.)

Chapter 9.68

INJURING OR INTERFERING WITH PROPERTY

Sections:

9.68.010 City Fixtures - Damaging - Misdemeanor.
9.68.020 City Fixtures - Railroad Crossings.
9.68.030 Stakes and Markers - Interference.
9.68.040 Streets, Gardens, Plazas, Etc. - Injuring, Etc.
9.68.050 Trees - Cutting, Breaking, Etc.
9.68.060 City-Owned Parking Lots and Structures.

9.68.010 City Fixtures - Damaging - Misdemeanor.

Every person who unlawfully displaces, injures or damages any warning signs, or lampposts, or any fixtures or appurtenances thereof, upon any street or sidewalk within the City, shall be guilty of a misdemeanor. (Prior Code §32.7.)

9.68.020 City Fixtures - Railroad Crossings.

It shall be unlawful for any person wilfully and maliciously to take down, raise up, molest, injure or in any way impair the efficiency or proper working of any gate, bar or rail, the purpose of which is public protection, now erected or that may hereafter be erected at any grade crossing of any railroad in the City. (Prior Code §32.18.)

9.68.030 Stakes and Markers - Interference.

It shall be unlawful for any person without the consent of the owner, if the same be upon private property, otherwise the consent of the City Engineer, to displace, remove or destroy, or in any manner interfere with any survey stakes, bench marks, grade stakes, block monuments or any other such marks or monuments. (Prior Code §32.49.)

9.68.040 Streets, Gardens, Plazas, Etc. - Injuring, Etc.

No person shall, in any manner, wilfully injure or deface any part of any street of the City, or any of the fixtures or appurtenances thereof, or any part of the garden or plaza connected with such streets or any part of the fixtures or appurtenances of such garden plaza. (Prior Code §32.50.)

9.68.050 Trees - Cutting, Breaking, Etc.

It shall be unlawful for any person to cut, break or mutilate any tree which is the property of another within the corporate limits of the City. (Prior Code §32.51.)

9.68.060 City-Owned Parking Lots and Structures.

A. PROHIBITION. No person shall enter or remain in any City owned or operated parking lot or parking structure except to park a vehicle therein and to exit the lot or structure or to enter a lot or structure in order to retrieve any parked vehicle and to depart therefrom or to use the restroom facilities and immediately exit the structure or except pursuant to a permit issued by the City.

B. NOTICE. The Director of Public Works shall post a notice describing the requirements of the above paragraph at appropriate entrances to all City owned or operated parking lots and structures. (Ord. 4908, 1995; Ord. 4421, 1986.)

Chapter 9.70

SOCIAL HOST ORDINANCE

Sections:

9.70.010 Definitions.
9.70.020 Unlawful Gatherings on Private Real Property When Alcohol is Served to Minors; Host Presumption; Declaration of Public Nuisance.
9.70.030 Civil Penalty.
9.70.040 Remedies Cumulative; Actions; Relationship to Other Laws.

9.70.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meaning and be construed as defined in this section.

A. **PARTY, GATHERING, OR EVENT**. A group of two or more persons who have assembled or are assembling for a social occasion or a social activity.

B. **PERSON**. Includes, but is not limited to:

1. the person who owns, rents, leases, or otherwise has control or is in charge of the premises where the party, gathering, or event takes place, irrespective of whether such person knew of the event or knew or intended that alcohol beverages would be possessed or consumed by minors during the party, gathering, or event;

2. the person who organized the party, gathering, or event; or

3. if the person who organized the party, gathering, or event is a juvenile, then both the parents (or legal guardians) of that juvenile and the juvenile shall be considered "persons" and, as such, shall be jointly and severally liable for the civil penalties imposed pursuant to this chapter, irrespective of whether the parent(s) (or legal guardians) knew of the party, gathering, or event, or knew or intended that alcohol beverages would be possessed or consumed by minors at the party, gathering, or event.

C. **JUVENILE**. Any minor child under the age of 18 years.

D. **MINOR**. Any person under the age of 21 years. (Ord. 5457, 2008.)

9.70.020 Unlawful Gatherings on Private Real Property When Alcohol is Served to Minors; Host Presumption; Declaration of Public Nuisance.

A. **Unlawful Gatherings**. No person shall permit, allow, or host a party, gathering, or event at his or her place of residence (or other private real property under his or her ownership or control) where alcoholic beverages are in the possession of, or consumed by, any minor.

B. **Host Presumption**. It is presumed that the owner of the private real property on which the party, gathering, or event occurs is a person who has permitted, allowed, or hosted the party, gathering or event, unless the private real property is rented, in which case it is presumed that the tenant has permitted, allowed, or hosted the party, gathering, or event.

C. **Public Nuisance**. It is hereby declared to be a public nuisance for any person to permit, allow, or host a party, gathering, or event at his or her place of residence (or other private real property under his or her ownership or control) where alcoholic beverages are in the possession of, or are being consumed by, any minor. (Ord. 5457, 2008.)

9.70.030 Civil Penalty.

A. **Violation**. Any person who permits, allows, or hosts a party, gathering, or event at his or her place of residence (or other private property under his or her control) where alcoholic beverages are in the possession of, or are being consumed by, any minor in violation of this chapter shall be liable and responsible for, and shall pay to the City, civil penalties in the amount specified in subsection (B) hereof. Such civil penalties shall be imposed and collected in the manner specified in Chapter 1.25 of this Code.

B. **Civil Penalties.**

1. A first violation of this Chapter 9.70 shall make the person responsible for the violation liable for a civil penalty of one thousand dollars ($1,000); provided however, the civil penalty for such responsible persons who are first time offenders of this Chapter 9.70 may be waived upon submission of proof of completion, within one hundred twenty (120) days of receipt of notice of the violation, of a City-recognized alcohol counseling program, such as teen court or an alcohol rehabilitation or education program, as such programs may be designated in writing by the City Administrator of the City from time to time.

2. A second violation of this Chapter 9.70 by the same responsible person shall make the person responsible for the violation liable for a civil penalty of two thousand dollars ($2,000); provided however, the civil penalty for such responsible persons who are second time offenders of this Chapter 9.70 may be reduced to one thousand dollars ($1,000) upon submission of proof of completion, within one hundred twenty (120) days of receipt of notice of the violation, of a City-recognized counseling program, such as teen court or an alcohol rehabilitation or education program, as such programs may be designated in writing by the City Administrator of the City from time to time.

3. A third or subsequent violation of this Chapter 9.70 by the same responsible person shall be punishable by a civil penalty of two thousand dollars ($2,000).

C. If a responsible person wishes to have a civil penalty waived or reduced pursuant to Paragraphs B.1 or B.2 above, the responsible person shall submit to the City Administrator evidence of enrollment in a recognized counseling or rehabilitation program within four (4) weeks of receipt of notice of the violation. Furthermore, if the counseling or rehabilitation program lasts longer than four (4) weeks, the responsible person shall submit evidence of continued enrollment every two (2) weeks until completion of the program. (Ord. 5457, 2008.)

9.70.040 Remedies Cumulative; Actions; Relationship to Other Laws.

The remedy provided under this chapter is cumulative, and shall not restrict the City to any other remedy to which it is entitled under law or equity. Nothing in this chapter shall be deemed to preclude the imposition of any criminal penalty under state law or the Municipal Code. Nor shall anything in this chapter be deemed to conflict with any penalty or provision under state law, or to prohibit any conduct authorized by the state or federal constitution. (Ord. 5457, 2008.)

Chapter 9.76

HAZARDOUS HOLES

Sections:

9.76.010 Prevention of Hazard - Types Designated.
9.76.020 Abandoned Hole - Precautions Required.
9.76.030 Notice to Remedy - Failure a Violation.

9.76.010 Prevention of Hazard - Types Designated.

It shall be unlawful for any person to maintain, operate, abandon or allow to exist upon any premises within the City owned by or under the control of the person, any well hole or well hole casing, cesspool, septic tank, sump or pipe or any other hole in the ground that is hazardous to the life or limb of child or adults unless proper precautions are taken by the person to prevent such well hole or well hole casing, cesspool, septic tank, sump or pipe from being a hazard to the life or limb of child or adults. (Prior Code §32.20(part).)

9.76.020 Abandoned Hole - Precautions Required.

It shall be unlawful for any person to abandon such well hole or well hole casing, cesspool, septic tank, sump or pipe within the City without first taking proper precautions to prevent such abandoned well hole or well hole casing, cesspool, septic tank, sump or pipe from being a hazard to the life or limb of child or adults. (Prior Code §32.20(part).)

9.76.030 Notice to Remedy - Failure a Violation.

In the event that any owner or person, having under his control premises upon which such hazard exists, is notified by the Police Department of the City, in writing, that such hazard exists and such person fails, within twenty-four (24) hours, to remedy the condition then existing, each day that such hazard continues shall be considered a separate and distinct violation of this chapter. (Prior Code §32.20(part).)

Chapter 9.84

IDENTIFICATION CARDS AND PHOTOGRAPHIC PRINTS

Sections:

9.84.010 Sale of Photographic, Etc., Prints, Identification Cards, Etc., by Police Department Authorized.
9.84.020 Moneys Collected Paid Into General Fund.

9.84.010 Sale of Photographic, Etc., Prints, Identification Cards, Etc., by Police Department Authorized.

The Police Department is hereby authorized to issue identification cards to persons applying therefor and to sell photographic or photostatic prints from film or other records which have been made by the Police Department in its routine work, and to require the payment of an amount for such cards, photographic or photostatic prints as may be fixed by the Board of Fire and Police Commissioners. The issuance of such cards and sale of such prints shall at all times be subject to such rules and orders as may be prescribed by the Board. (Prior Code §2.5(part).)

9.84.020 Moneys Collected Paid Into General Fund.

All moneys collected by the Police Department from the issuance of identification cards or the sale of photographic prints as provided shall be paid into the General Fund of the City. (Prior Code §2.5(part).)

Chapter 9.88

LOST AND UNCLAIMED PROPERTY

Sections:

9.88.010	**Definitions.**	**9.88.050**	**Auction Sale - Time - Conduct.**
9.88.020	**Destruction of Unsafe, Etc., Property.**	**9.88.060**	**Expenses of Sale - Disposition of Sale Receipts.**
9.88.030	**Police to Store - Restoration to Owner.**	**9.88.070**	**Unsold Items - Disposition.**
9.88.040	**Notice of Auction Sale of Unclaimed Property.**	**9.88.080**	**Exceptions to Chapter.**

9.88.010 Definitions.

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

(1) "Abandoned property" means all property whose former owner has voluntarily and intentionally given up possession.

(2) "Unclaimed property" means all personal property that is lost, found, abandoned, stolen, embezzled or deposited with the Police Department. (Prior Code §28.1.)

9.88.020 Destruction of Unsafe, Etc., Property.

The Chief of Police may destroy any unclaimed property deemed by him to be inimicable to the health, safety or welfare of the City. (Prior Code §28.2.)

9.88.030 Police to Store - Restoration to Owner.

All unclaimed personal property coming into the possession of the Police Department shall be stored in a safe place by the Chief of Police. The Chief of Police shall restore such property to its legal owner, upon proof of such ownership satisfactory to him and upon the payment of all reasonably necessary costs in the care and protection thereof, unless such property is held by the Police for evidence in a pending case in which event it shall be disposed of only upon order of the proper court. (Prior Code §28.3.)

9.88.040 Notice of Auction Sale of Unclaimed Property.

At any time after such unclaimed property has been stored by the Chief of Police for a period of four (4) months, or, in the case of unclaimed bicycles, after such bicycles have been stored for a period of three (3) months, the Chief of Police may publish once in a newspaper of general circulation in the City a notice of his intention to sell at public auction to the highest bidder at the time and place therein specified, all such unclaimed personal property. At the request of the Chief of Police, the Purchasing Division shall cause the notice to be published. (Ord. 3288 §1, 1968; Ord. 2960 §1, 1963; prior Code §28.4.)

9.88.050 Auction Sale - Time - Conduct.

The sale mentioned in Section 9.88.040 shall be held not less than five (5) days after the publication of the notice of the sale and each item shall be separately sold at public auction to the highest bidder, except in cases where there may be several of the same kind of articles or accessories thereof of little value, in which case they may be sold by lot or parcel. At the request of the Chief of Police, the Purchasing Division shall conduct the sale. (Prior Code §28.5.)

9.88.060 Expenses of Sale - Disposition of Sale Receipts.

The expenses connected with the sale authorized by the preceding section shall be a proper charge against the funds of the Police Department and the receipts and proceeds received from the sale shall first be applied to reimburse the Police Department for the expenses and the balance of all proceeds received from the sale shall be delivered to the City Treasurer for deposit in the Service Retirement Fund of the Fire and Police Pension Fund. (Prior Code §28.6.)

9.88.070 Unsold Items - Disposition.

The Chief of Police shall report any items remaining unsold after the public auction to the City Administrator who shall instruct the Chief what disposition shall be made thereof as he may see fit in the public interest. (Prior Code §28.7.)

9.88.080 Exceptions to Chapter.

The provisions of this chapter shall not apply to property subject to confiscation or special disposition under the laws of the State or of the United States of America. (Prior Code §28.8.)

Chapter 9.95

USE OF CITY SIDEWALKS AND RIGHTS-OF-WAY FOR DINING PURPOSES

Sections:

9.95.010	**Purpose.**	**9.95.060**	**Alcoholic Beverage Restrictions.**
9.95.020	**Outdoor Dining - Defined.**	**9.95.070**	**Special Closures.**
9.95.030	**Outdoor Dining License Required.**	**9.95.080**	**Issuance of License.**
9.95.040	**Where Outdoor Dining in Public Rights-of-Way Permitted.**	**9.95.090**	**Term and Renewal.**
9.95.050	**Sidewalk Required to Accommodate Pedestrian Traffic.**		

9.95.010 Purpose.

The purpose of the regulations and standards in this chapter are to allow increased business and pedestrian traffic by providing safe and visually appealing opportunities for outdoor dining. (Ord. 4820, 1993.)

9.95.020 Outdoor Dining - Defined.

"Outdoor dining" means the use of City sidewalks and public rights-of-way for the consumption of food or beverages in conjunction with the operation of a food service establishment properly licensed for such service under state and county health regulations and which provides on-premises customer seating. (Ord. 4820, 1993.)

9.95.030 Outdoor Dining License Required.

A. Outdoor dining is not allowed without an outdoor dining license agreement with the City as set forth in this Chapter 9.95.

B. The owner or operator of a business or service which includes outdoor dining shall maintain such operation in compliance with all provisions of the outdoor dining license and the administrative regulations approved pursuant to this Chapter 9.95. (Ord. 5130, 1999; Ord. 4820, 1993.)

9.95.040 Where Outdoor Dining in Public Rights-of-Way Permitted.

Outdoor dining is not permitted where, in the opinion of the City Engineer, the speed, volume or nearness of vehicular traffic is not compatible with outdoor dining. All outdoor dining areas must be adjacent to and incidental to the operation of a food service establishment providing on-premises customer seating properly licensed for such service pursuant to state and county health regulations. Use of the sidewalk or public right-of-way must be confined to the actual sidewalk and public right-of-way frontage of the restaurant or food service building. (Ord. 4820, 1993.)

9.95.050 Sidewalk Required to Accommodate Pedestrian Traffic.

Outdoor dining is permitted only where, in the opinion of the City Engineer, the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed outdoor dining. Along State Street, between Cabrillo Boulevard and Victoria Street, the outdoor dining area shall leave not less than eight (8) consecutive feet of sidewalk width which is clear and unimpeded at all points for pedestrian traffic. Outdoor dining operations must maintain adequate clearance for all normal uses of the sidewalk and any special or occasional uses that may arise from time to time. (Ord. 5130, 1999; Ord. 5047, 1998; Ord. 5013, 1997; Ord. 4820, 1993.)

9.95.060 Alcoholic Beverage Restrictions.

The service of alcoholic beverages shall be restricted solely to on-premise consumption by customers within the outdoor dining area. Each of the following standards apply to outdoor dining areas which provide alcoholic beverage service:

A. The outdoor dining area must be immediately adjacent to and abutting an indoor restaurant which provides food and beverage service;

B. The outdoor dining area must be clearly and physically separated from pedestrian traffic;

C. The operator shall post a written notice to customers that the drinking or carrying of an open container of alcohol is prohibited outside the outdoor dining area;

D. The outdoor dining operations must be duly licensed by the state Department of Alcoholic Beverage Control. (Ord. 4820, 1993.)

9.95.070 Special Closures.

Outdoor dining is an interruptible or terminable license granted by the City pursuant to a contract. The City shall have the right and power, acting through the City Engineer, to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area or right-of-way. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area.

To the extent possible, the licensee shall be given prior written notice of any time period during which the operation of the outdoor dining area will be prohibited by the City. (Ord. 4820, 1993.)

9.95.080 Issuance of License.

The City Engineer may issue an outdoor dining license pursuant to administrative regulations issued by the Public Works Director and approved by resolution of the City Council.

At a minimum such regulations shall determine and require the following:

1. The approval and execution of a standard license agreement in a form acceptable to the City Attorney;
2. Proof of insurance naming the City as an additional insured acceptable to the City Administrator;
3. Special site conditions as needed or desirable;
4. Whether the design for seating and signage meets the minimum standards of the established administrative regulations;
5. Such other conditions as are necessary for public safety or to protect public improvements, such as the posting of appropriate security to guarantee the restoration of the right-of-way upon termination of the license;
6. Conditions necessary to restore the appearance of the sidewalk or right-of-way on termination of use;
7. Compliance with the applicable City building, zoning and design review requirements, particularly those requirements with respect to automobile parking.
8. Some form of fair market rent as compensation to the public for use of the sidewalk or right-of-way in an amount established by a resolution of the City Council;
9. The payment of an appropriate license application fee in an amount established by resolution of the City Council;
10. Adequate setback and clearances for all expected pedestrian uses of the sidewalks, as well as for unusual or occasional public uses that can be anticipated. (Ord. 5130, 1999; Ord. 4820, 1993.)

9.95.090 Term and Renewal.

The maximum term of an outdoor dining license is one year. Thereafter, the City Engineer may extend the license for additional periods, not to exceed one year each, following review and approval of the operation. If the City Engineer considers additional or revised conditions desirable, such new conditions may be imposed upon the extension, including the imposition of a license renewal fee. (Ord. 4820, 1993.)

Chapter 9.97

SITTING OR LYING ON SIDEWALKS AND PASEOS ALONG CERTAIN DOWNTOWN PORTIONS OF STATE STREET

Section:

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

A. Prohibition. No person shall sit or lie down upon a public sidewalk or public Paseo, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or public paseo, during the hours between 7:00 a.m. and 2:00 a.m. of the following day along the first thirteen (13) blocks of State Street from Cabrillo Boulevard to and including the 1300 block of State Street.

For the purposes of this subsection (A), the terms "public sidewalk or public paseo" shall also include those public pedestrian sidewalks or public paseos which serve as access to and from State Street and the City parking facilities adjacent to State Street within the designated blocks, which shall also specifically include the area known as "Storke Placita," as well as the railings, statues, sculptures, or planter areas within the designated blocks.

B. Exceptions. The prohibitions of Subsection A shall not apply to any person or persons:

1. Who is sitting or lying down on a public sidewalk due to a medical emergency;
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
3. Who is operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit issued pursuant to Chapter 9.95 of this Title or who is participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on public sidewalk pursuant to a street use or other applicable parade permit issued by the City in accordance with this Code.

Nothing in any of these exceptions shall be construed to permit any conduct which is otherwise prohibited by this Code.

C. Scope. Nothing herein shall be deemed to apply the requirements of subsection (A) to the following:

1. A person who is sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner for such purposes; or
2. A person who is sitting on a public sidewalk within a bus stop zone while waiting for public transportation.

D. Prior Warning. No person shall be prosecuted for a violation of this Chapter unless the person engages in conduct prohibited by this Chapter after having been notified by a law enforcement officer that the conduct violates this Chapter. (Ord. 5690, 2015; Ord. 5009, 1997.)

Chapter 9.98

PEDESTRIANS BLOCKING PUBLIC SIDEWALKS

Sections:

9.98.010 Unlawful Street or Sidewalk Obstruction.
9.98.030 Penalty for Violation.

9.98.010 Unlawful Street or Sidewalk Obstruction.

No person shall stand, or sit, or congregate in or upon any street, sidewalk or crosswalk in the City with the intent to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians, or to block the entrance to a building, and refuse to disperse after having been ordered to do so by the police when the police reasonably believe an immediate threat to public safety is present. (Ord. 5691, 2015; Ord. 3162 §1, 1966.)

9.98.030 Penalty for Violation.

Any person who violates the provisions of this chapter is deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding five hundred dollars ($500.00) or imprisonment for a term of not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 3162 §3, 1966.)

Chapter 9.99

ACCESS TO HEALTH CARE FACILITIES AND PLACES OF WORSHIP

Sections:

9.99.010 Definitions.
9.99.020 Access to Driveway Areas.
9.99.030 Private Right of Action.

9.99.010 Definitions.

As used in this Chapter, the following terms and phrases shall have the indicated meanings:

A. HEALTH CARE FACILITY. Any medical or health facility, hospital or clinic within the City which is licensed under State law or any building, office or other place within the City regularly used by any health care provider licensed under State law to provide medical, nursing, or health care or advice to patients. A health care facility includes but is not limited to any buildings, appurtenances and grounds, entrances, parking facilities, and driveways.

B. PLACE OF WORSHIP. A place of worship includes but is not limited to any buildings, appurtenances and grounds, entrances, parking facilities, and driveways where persons gather to worship when the same are used solely and exclusively for religious worship.

C. DEMONSTRATION ACTIVITY. All expressive and symbolic conduct, whether active or passive, which shall include, but not be limited to, protesting, picketing, distributing literature, and engaging in oral or silent protest, education or counselling activities.

D. DRIVEWAY AREA. That portion of a street right-of-way (including a sidewalk) generally improved for the purposes of providing vehicular access to adjacent private property. At the request of a health care facility or place of worship, the City of Santa Barbara will indicate (such as through the use of painted lines) the perimeter boundaries of a driveway area. (Ord. 5108, 1999; Ord. 4812, 1993.)

9.99.020 Access to Driveway Areas.

No person shall conduct any demonstration activity within the driveway area or within eight (8) feet of the driveway area of a health care facility or place of worship, provided however that it shall be lawful for a person to use a public sidewalk or street right-of-way adjacent to a health care facility or place of worship in order to traverse a driveway area. No person shall impede access to a driveway entrance of a health care facility or place of worship by any conduct which delays or impedes the flow of pedestrian or vehicular traffic in or out of such facility. (Ord. 4812, 1993.)

9.99.030 Private Right of Action.

A. REMEDIES. Any person who is seeking or intends to seek access to a health care facility or place of worship and is aggrieved by an act prohibited by this Chapter may bring an action for damages, injunctive and/or declaratory relief, as appropriate, in a court of competent jurisdiction against any person who has violated, has conspired to violate or proposes to violate its provisions.

B. ATTORNEY FEES - CIVIL PENALTIES. Any person who prevails in such an action shall be entitled to recover from the violator those damages, costs, attorneys' fees and such other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved person a civil penalty of up to One Thousand Dollars ($1,000) for each violation.

C. REMEDIES NOT EXCLUSIVE. The remedies provided by this Section are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.
(Ord. 4812, 1993)

Chapter 9.100

BURGLARY AND ROBBERY ALARM SYSTEMS

Sections:

9.100.010 Purpose and Scope.
9.100.020 Definitions.
9.100.030 Alarm Installation Company Operators.
9.100.040 Alarm Installation Agents.
9.100.050 Alarm Registration Required.
9.100.060 Alarm Registration Application.
9.100.070 Alarm Registration Duration and Renewal.
9.100.080 Registration Fees.
9.100.090 Duties of the Alarm User.
9.100.100 Duties of the Alarm Installation Company and Monitoring Company.
9.100.110 Alarm School.
9.100.120 Warning Letters and Penalties.
9.100.130 Right of Appeal.
9.100.140 Confidentiality.

9.100.010 Purpose and Scope.

A. **PURPOSE**. The purpose of this Chapter is to encourage Alarm Users and alarm companies to properly use and maintain the operational effectiveness of Alarm Systems in order to improve the reliability of Alarm Systems and reduce or eliminate False Alarms.

B. **APPLICATION**. This Chapter governs Alarm Systems intended to summon law enforcement response; it requires registration, establishes fees, provides for penalties for violations of the Chapter, and it establishes a system of administration for responding to Alarm Systems. (Ord. 5329, 2004.)

9.100.020 Definitions.

All words and phrases used in this Chapter which are defined in the California Private Investigator and Adjuster Act (the "Act," state California Business and Professions Code Section 7500 et seq.) shall have the same meaning as in said Act, and certain additional words and phrases used in this Chapter are defined as follows:

A. **ALARM DISPATCH REQUEST**. A notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular Alarm site.

B. **ALARM INSTALLATION COMPANY**. A Person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an Alarm System in an Alarm Site.

C. **ALARM REGISTRATION**. Authorization granted by the Police Department to an Alarm User to operate an Alarm System.

D. **ALARM SCHOOL**. A class conducted for the purpose of educating Alarm Users about the responsible use, operation, and maintenance of Alarm Systems and the problems created by False Alarms.

E. **ALARM SITE**. A single fixed premises or location served by an Alarm System or Systems. Each unit, if served by a separate Alarm System in a multi-unit building or complex, shall be considered a separate Alarm Site.

F. **ALARM SYSTEM**. Any device or series of devices, including but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response. Alarm System does not include an alarm installed in a vehicle or on someone's person.

G. **ALARM USER**. Any person who has contracted for monitoring, repair, installation or maintenance service from an Alarm Installation Company or Monitoring Company for an Alarm System, or who owns or operates an Alarm System which is not monitored, maintained, or repaired under contract.

H. **AUDIBLE ALARM**. A device designed for the detection of unauthorized entry on premises which generates a silent or audible sound on the premises when it is activated.

I. **BOARD**. The Board of Fire and Police Commissioners of the City of Santa Barbara.

J. **CANCELLATION**. The process where response is terminated when a Monitoring Company for the Alarm Site notifies the responding law enforcement agency that there is not an existing situation at the Alarm Site requiring law enforcement agency response after an Alarm Dispatch Request.

K. **FALSE ALARM**. An alarm signal, either silent or audible, necessitating response by the Police Department where an emergency situation for which the alarm system was designed or used does not exist. Activation of an audible alarm system for five (5) seconds or less shall not be deemed a false alarm. Activation of an alarm system due to abnormal conditions (windstorms, downed trees, power outages caused by grid failure, and other natural disasters) beyond the control of the Alarm User shall not be deemed a false alarm.

L. **MONITORING**. The process by which a Monitoring Company receives signals from an Alarm System and relays an Alarm Dispatch Request to the Police Department for the purpose of summoning law enforcement to the Alarm Site.

M. **MONITORING COMPANY**. A Person in the business of providing Monitoring services.

N. **PANIC ALARM**. An audible or silent Alarm System signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement and/or medical response.

O. **PERSON**. An individual, corporation, partnership, association, organization or similar entity.

P. **RESPONDER**. An individual capable of reaching the Alarm Site and having access to the Alarm Site, the code to the Alarm System and the authority to approve repairs to the Alarm System.

Q. **TAKEOVER**. The transaction or process by which an Alarm User takes over control of an existing Alarm System, which was previously controlled by another Alarm User. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.030 Alarm Installation Company Operators.

It shall be unlawful for any person required to have a valid state license as an alarm system operator issued by the Bureau of Security and Investigative Services per the Business and Professions Alarm Company Act to engage in the business of alarm company operator within the City without first filing a copy of the state license with the City of Santa Barbara and obtaining a Business License from the City. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.040 Alarm Installation Agents.

It shall be unlawful for any person required to have a state issued identification card as an alarm agent issued by the Bureau of Security and Investigative Services per the Business and Professions Alarm Company Act to act as an alarm agent within the City without first registering his or her name and filing a copy of the state identification card with the Police Department. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.050 Alarm Registration Required.

A. **REGISTRATION REQUIRED.** It shall be unlawful for any person to use, install or cause to be installed an Alarm System on any premises within the City without having first registered said Alarm System with the Police Department.

B. **SEPARATE SYSTEMS**. A separate Alarm Registration is required for each Alarm Site.

C. **TRANSFERABILITY**. An Alarm Registration cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Police Department of any change that alters any of the information listed on the Alarm Registration application within ten (10) business days of such change.

D. **PAYMENT OF PENALTIES AND FEES**. All penalties and fees owed by an applicant to the City must be paid in full before an annual Alarm Registration may be issued or renewed. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.060 Alarm Registration Application.

An application for an Alarm System permit shall be submitted to the Chief of Police and shall set forth the following information:

A. The name, complete address, and telephone numbers of the Person who will be the registration holder and be responsible for the proper maintenance and operation of the Alarm System and payment of fees assessed;

B. The classification of the Alarm Site as either residential (includes apartment, condo, mobile home, etc.) or commercial;

C. For each Alarm System located at the Alarm Site, the classification of the Alarm System (i.e. Burglary, Holdup, Duress, Panic Alarms, or other) and for each classification whether such alarm is audible or silent;

D. Any dangerous or special conditions present at the Alarm Site;

E. The type of business conducted at a commercial Alarm Site;.

F. The address at which the Alarm System is to be installed and used and hereinafter referred to as the Alarm Site.

G. If the applicant is a corporation, the names and addresses of its principal officers.

H. If the applicant is a partnership, association, or other business entity, the names and addresses of the partners or persons comprising the same.

I. The names, addresses and telephone numbers of three (3) or more persons who will be available to secure the premises during any hour of the day or night.

J. If the application is for a commercial Alarm System, an on-site phone number must be provided at which an employee of the business can be reached before and after closing hours. (Ord. 5329, 2004; Ord. 4908, 1995; Ord. 4420, 1986.)

9.100.070 Alarm Registration Duration and Renewal.

Each Alarm Registration shall be valid for a period of only one year and must be renewed annually by submitting an updated application and a registration renewal fee to the City of Santa Barbara. The Alarm User will be notified in writing by the City of the need to renew each registration not less than thirty (30) days prior to the expiration of each registration. It shall be the responsibility of the Alarm User to submit an application and the appropriate fees prior to the registration expiration date. A late fee may be assessed if the renewal application fee is not paid within thirty (30) days of the date of the registration expiration. (Ord. 5329, 2004.)

9.100.080 Registration Fees.

A. **FEE RESOLUTION**. The amount of the fee for an initial Alarm Registration or an Alarm Registration renewal shall be established in an Alarm System Fee Resolution adopted by the City Council. No partial refund of a registration or registration renewal fee will be made if an Alarm System is deactivated.

B. **INITIAL FEE PAYMENT**. The initial Alarm Registration fee for newly installed Alarm Systems must be submitted to the City within ten (10) days after the Alarm System installation or Alarm System Takeover.

C. **RENEWAL FEES**. The Alarm Registration renewal fees must be submitted to the City within thirty (30) days of the date of renewal; failure to pay the Alarm Registration renewal fees will result in late fees, in an amount established by the City Council under Fee Resolution. Failure to register an Alarm System prior to the end of the Registration period will result in non-registered False Alarm fees for any False Alarms within this time. False Alarms emitted during an expired Registration period shall not be excused.

D. **PANIC ALARM REGISTRATION**. Registration for Panic Alarms will be free of charge but still subject to fines as they relate to False Alarms. (Ord. 5329, 2004.)

9.100.090 Duties of the Alarm User.

A. **ALARM USER RESPONSIBILITIES**. An Alarm User shall be responsible for the following:

1. To maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms; and
2. To make every reasonable effort to have a Responder to the Alarm System's location when requested by the Police Department in order to do the following:
   a. Deactivate an Alarm System;
   b. Provide access to the Alarm Site; or
   c. Provide alternative security for the Alarm Site.

B. **INSPECTION REQUIREMENT**. An Alarm User shall have a licensed Alarm Installation Company inspect the Alarm System after two (2) False Alarms in a one (1) year period. After four (4) False Alarms within a one (1) year period, the Alarm User must have a licensed Alarm Installation Company modify the Alarm System to be more false alarm resistant or provide additional user training as appropriate.

C. **LIMIT ON AUDIBLE ALARMS**. An Alarm User shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an Alarm Site will sound for no longer than ten (10) minutes after being activated.

D. **PERMISSIBLE ALARM SOUNDS**. No alarm shall be installed or used which emits a sound which is similar to that of an emergency vehicle siren or a civil defense warning system. (Ord. 5329, 2004.)

9.100.100 Duties of the Alarm Installation Company and Monitoring Company.

A. The Alarm Installation Company shall be responsible for the following:

1. To provide written and oral instructions to each of its Alarm Users in the proper use and operation of their Alarm Systems;
2. On a quarterly basis, provide a list of all Alarm Users to the Police Department.

B. A Monitoring Company shall be responsible for the following:

1. To report alarm signals by using telephone numbers designated by the Police Department;
2. To communicate any available information about the location on all alarm signals related to the Alarm Dispatch request;
3. After an Alarm Dispatch Request, to promptly advise the law enforcement agency if the Monitoring Company knows that the Alarm User or the Responder is on the way to the Alarm Site.

C. An Alarm Installation Company or a Monitoring Company that purchases Alarm System accounts from another Person shall notify the Alarm User of their duty to register their alarm system with the Police Department. (Ord. 5329, 2004.)

9.100.110 Alarm School.

Alarm Users who have three or more false alarms within a 12-month Registration period will be eligible to attend Alarm School at which time a waiver will be given to the Alarm User excusing one False Alarm. The purpose of said class is to inform Alarm Users of the problems created by False Alarms and teach Alarm Users how to avoid generating False Alarms. Alarm Users with three or more false alarms can attend one of two sessions per year to waive one False Alarm. (Ord. 5329, 2004.)

9.100.120 Warning Letters and Penalties.

A. **WARNING LETTERS**. If an alarm system emits a false alarm, a warning letter directed to the Alarm User will be issued by the Police Department.

B. **CIVIL PENALTIES FOR FALSE ALARMS**. Each registered Alarm User shall pay civil penalties for each False Alarm beginning with the third False Alarm in a 12-month registration period. The penalty will be based on a penalty schedule approved by resolution of the City Council adopted concurrently with the enactment of this Chapter.

C. **NON-REGISTERED ALARM USERS**. Each non-registered Alarm User shall be directed to register their Alarm System with the Police Department. The registration fee shall be based on a schedule approved by resolution of the City Council adopted concurrently with the enactment of this Chapter.

D. **NON-REGISTERED FALSE ALARM PENALTIES**. Each non-registered Alarm User shall pay a civil penalty for each False Alarm beginning with the first False Alarm. The penalties will be based on a fee schedule approved by City Council resolution.

E. **CANCELLATION OF AN ALARM**. If Cancellation occurs prior to law enforcement arriving at the scene, it shall not be considered a False Alarm for the purpose of the imposition of penalties, and no penalties shall be assessed.

F. **WRITTEN NOTIFICATION OF FALSE ALARMS**. The Chief of Police shall notify the Alarm User in writing after each False Alarm. The notification shall include the following: 1. if applicable, the amount of the penalty for the False Alarm, 2. when applicable, a notice that the Alarm User can attend Alarm School to waive a penalty, and 3. a description of the appeals procedure available to the Alarm User pursuant to Section 9.100.130. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.130 Right of Appeal.

A. **RIGHT TO APPEAL; NOTICE OF APPEAL**. The action of the Police Chief notifying an Alarm User of a civil penalty and imposing the penalty may be appealed to the Board by filing written notice of appeal with the City Clerk within fifteen (15) days after the date appearing on the Warning Letter issued pursuant to Section 9.100.120.

B. **HEARING AND DETERMINATION**. The Board shall hear and determine such an appeal at its next regular meeting following filing of the appeal. Written notice of the time and place of hearing shall be served on the Alarm User not less than seven (7) days prior to the date of the scheduled Board appeal hearing. Upon conducting a hearing regarding the appeal, the Board may uphold, reverse, or modify the Police Chief's decision. The procedures for the conduct of an appeal hearing held by the Board pursuant to this Section shall be those procedures established in Santa Barbara Municipal Code Section 1.25.100. An affirmative vote of a majority of the membership of the Board shall be required to reverse or modify any decision ordered by the Police Chief. The decision of the Board shall constitute a final administrative decision regarding the appeal and the imposition of the civil penalty.

C. **BILLING FOR PENALTIES.** Not less than once a year, the Chief of Police shall certify to the Finance Director of the City the following information: 1. the names of those Alarm System users for which civil penalties have been imposed, 2. the address of Alarm Systems for which false alarms have emanated and for which penalties have been imposed, and 3. the amount of the penalties then due the City from such Alarm System users, which penalties have either not been appealed to the Board pursuant to this section or for which the Board, after conducting the required appeal hearing, has upheld the imposition of penalties under this Chapter.

Thereafter, the Finance Director shall bill the Alarm Users for all penalty amounts duly imposed pursuant to this Chapter.

D. **COLLECTION OF UNPAID PENALTIES**. Those penalties which remain unpaid after billing pursuant to subsection (C) above may be collected as a lien against the real property upon which the Alarm System is located, provided the pre-conditions and the due process procedures provided for such manner of collections as established in subsections (B) and (C) of Santa Barbara Municipal Code Section 1.25.130 are duly followed. For the purposes of this Section, the term “Director” as used in Section 1.25.130 shall be deemed to be the Chief of Police.

E. **RIGHT OF JUDICIAL REVIEW**. An Alarm User or affected real property owner shall have the rights described in Santa Barbara Municipal Code Section 1.25.120 to obtain judicial review of any action of the Chief of Police or of the Board taken pursuant to this Chapter, including but not limited to, actions taken to impose civil penalties. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.140 Confidentiality.

In the interest of public safety, all information contained in and gathered through Alarm Registration applications, applications for appeals, and Alarm User lists shall be held in confidence by all employees or representatives of the municipality and by any third-party administrator or employees of a third-party administrator with access to such information to the full extent allowed by law. (Ord. 5329, 2004.)

Chapter 9.114

POLICE RESERVE CORPS

Sections:

9.114.010 Short Title.
9.114.020 Establishment, Composition and Compensation.
9.114.030 Function of the Corps.
9.114.040 Training and Assignments.
9.114.050 Qualifications.
9.114.060 Rules and Regulations.
9.114.070 Termination and Resignation from Membership.
9.114.080 Issuance of Identification.
9.114.090 Carrying Arms.
9.114.100 Authority.
9.114.110 Increasing or Decreasing Membership.
9.114.120 Uniform, Sidearms, Belt, Holster, Etc.
9.114.130 Not Members of City Police Department.
9.114.140 Protection and Benefits.
9.114.150 Misrepresentation Unlawful.
9.114.160 Technical Reserves.

9.114.010 Short Title.

This chapter shall be known as the Police Reserve Corps Ordinance of the City of Santa Barbara. (Ord. 3010 §1, 1964.)

9.114.020 Establishment, Composition and Compensation.

There is hereby established in and for the City of Santa Barbara a Police Reserve Corps, hereinafter referred to as the "Corps". The Corps is so established as a voluntary organization composed of persons to be appointed by the Chief of Police hereinafter referred to as the "Chief". Each and all of the persons so appointed and composing the Corps shall serve gratuitously with the following exceptions.

(1) Such reserve members may be reimbursed in the manner provided by law, in the amount of one (1) complete work uniform excluding gun, handcuffs and all leather goods after six (6) months of satisfactory attendance, performance and service. Upon reimbursement, the complete uniform shall become the property of the Santa Barbara Police Department and is to be returned on termination or resignation from the Corps.

(2) Whenever in his judgment an actual compelling emergency situation or situations arise or exist and the regular force be inadequate, the Chief may assign members of the Corps to such duties as he may prescribe, provided that where practicable and advance time permits, the approval of the City Administrator shall be obtained. Such services may be compensated for in an amount commensurate with compensation paid to order local auxiliary Police forces.

(3) When the Chief directs a member of the Corps to perform a special duty and the City receives reimbursement of the cost of that duty from the party who requested that special duty, the member shall receive compensation at the rate established by the City.

The Chief shall have complete authority and control over the Corps. The membership of the Corps shall not exceed fifty (50), excluding Technical Reserves. The Chief may appoint as members of the Corps, any persons whom he deems to be qualified and he may reject any application for membership.

(4) In accordance with FLSA Regulation 29 C.F.R., Sections 553.106(a) and (e), any Reserve Officer who fulfills the monthly minimum requirements as prescribed by the Chief of Police and is otherwise in good standing to include current weapons qualification, will receive a "Nominal Fee" of $50 for that month. An additional $50 stipend will be paid to any Reserve Officer serving in a leadership position of Lieutenant or Sergeant, providing they have met the conditions above, in recognition of the increased duties and responsibilities associated with those positions. (Ord. 4638, 1990; Ord. 4019, 1979.)

9.114.030 Function of the Corps.

The Corps shall function as a unit of the Police Department, and shall also function to assist regular Police Officers of the City in law enforcement and the maintenance of peace and order in all cases where, in the opinion of the Chief, it is impracticable to furnish adequate Police protection solely by means of the regular Police Officers of the City. (Ord. 3010 §3, 1964.)

9.114.040 Training and Assignments.

The Chief shall provide for the training of candidates for membership in the Corps and for the further training of members of the Corps in all fields of Police activity, and for that purpose may assign such members to any of the various Police duties of the Police Department of the City. (Ord. 3010 §4, 1964.)

9.114.050 Qualifications.

No person shall become a member of the Corps until he has taken the training and is able to meet all other requirements prescribed by the Chief for such membership. When so qualified, and when selected by the Chief, such member shall then be sworn in by the Chief, or his duly authorized representative, as a member of the Corps and shall take and file with the City Clerk the required loyalty oath. (Ord. 3010 §5, 1964.)

9.114.060 Rules and Regulations.

In order to effectuate the purpose of the Corps, the Chief shall promulgate and establish rules and regulations to govern the Corps, including the fixing of specific duties of its members and providing for the maintenance of discipline. He may change such orders from time to time. Such rules and regulations shall be approved by the Fire and Police Commission and shall become effective upon the date of such approval. (Ord. 3010 §6, 1964.)

9.114.070 Termination and Resignation from Membership.

The membership of any person in the Corps may be terminated by the Chief at any time, and any member of said Corps may resign from the Corps at any time upon notifying the Chief of Police in writing of his resignation at least ten (10) days prior to the effective date of such resignation. (Ord. 3010 §7, 1964.)

9.114.080 Issuance of Identification.

When a selected and designated person has been duly sworn in and has subscribed and filed the required loyalty oath, a Police Identification Card, Civil Defense Identification Card, badge and cap piece, and such other insignia or evidence of identification as the Chief may prescribe shall be issued to such person who shall thereupon be a member of the Corps. (Ord. 3010 §8, 1964.)

9.114.090 Carrying Arms.

No member of the Corps shall carry any firearm until he has qualified for and received authorization by the Chief. No reserve member shall carry a firearm except while on, and to and from a duty status. All members of the Corps when on duty shall carry the regulation Police baton unless otherwise instructed by the Chief. (Ord. 3010 §9, 1964.)

9.114.100 Authority.

A member of the Corps when on duty as assigned by the Chief or his duly authorized representative, shall have the authority to direct traffic in accordance with the provisions of the ordinances of the City and the laws of the State of California, and shall have the same general power of arrest as regular personnel of the Police Department, subject, however, to any limitation which the Chief or his duly authorized representative may impose. Provided, however, when in off-duty status, a member of the Corps shall have the same general power of arrest as that of a private citizen of this State. (Ord. 3010 §10, 1964.)

9.114.110 Increasing or Decreasing Membership.

Subject to the provisions of Section 9.114.020, the Chief may by order diminish or expand the membership of the Corps at any time as in his discretion may be required. (Ord. 3010 §11, 1964.)

9.114.120 Uniform, Sidearms, Belt, Holster, Etc.

(a) The uniform for members of the Corps shall be similar to but with distinguishing difference to the uniform worn by members of the regular Police Department, and arms carried by members are to be carried in the regulation Police Sam Brown belt and holster, as approved by the Chief. Insignia, identification, baton and badge shall be furnished by the City and shall be and remain the property of the City.

(b) The uniform, badge, cap piece, insignia (other than identification card), gun, belt, holster and baton shall be carried only while the member carrying same is on duty as assigned by the Chief. (Ord. 3010 §12, 1964.)

9.114.130 Not Members of City Police Department.

The members of the Corps shall not for any purpose be deemed to be members of the Police Department of the City. (Ord. 3084 §1(part), 1965; Ord. 3010 §13(part), 1964.)

9.114.140 Protection and Benefits.

Each member of the Corps, when engaged in the performance of duties to which he may be duly and regularly assigned as provided in this chapter, shall be entitled to the protection and benefits of the California Workmen's Compensation and Insurance Act (Division 4, Labor Code). For purposes of this Act, members of the Corps who serve without pay or other consideration shall be registered as disaster service workers and be entitled to benefits under such act as disaster service workers. (Ord. 3084 §1(part), 1965; Ord. 3010 §13(part), 1964.)

9.114.150 Misrepresentation Unlawful.

It shall be unlawful for any person (other than a regular Police Officer of the City) who is not a member of the Corps to wear, carry or display any identification card, badge, cap piece, uniform or insignia of the Corps, or in any manner to represent himself to be connected with the Corps. (Ord. 3010 §14, 1964.)

9.114.160 Technical Reserves.

Individuals desiring to volunteer time to the Police Department in various capacities, such as Assistant Armorer, Crime Analyst, etc., may be assigned as Technical Reserves (Level 3). No weapons, uniforms, or compensation will be issued. (Ord. 4638, 1990)

Chapter 9.116

CIVIL DEFENSE AND DISASTER

Sections:

9.116.010 Purposes.
9.116.020 Definitions.
9.116.030 Emergency Services Council - Membership.
9.116.040 Emergency Services Council - Powers and Duties.
9.116.050 Director of Emergency Services - Powers and Duties.
9.116.060 Powers of Director During an Emergency.
9.116.070 Emergency Services Organization.
9.116.080 Divisions, Services and Staff of the Emergency Services Organization.
9.116.090 Line of Succession for Mayor During Emergency.
9.116.100 Emergency Operation Centers.
9.116.110 Punishment of Violations.

9.116.010 Purposes.

The declared purposes of this ordinance are to provide for the preparation and carrying out of plans for the protection of persons, property and the environment within this City in the event of an emergency or disaster; the direction of emergency organization; and the coordination of the emergency functions of the City with the County Operational Area, other public agencies or entities, and affected private persons, corporations, or organizations. Any expenditures made in connection with such Emergency Services activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants of the City. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.020 Definitions.

As used in this Chapter, the following terms shall have the designated meanings:

A. "State of Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, civil unrest, drought, sudden and severe energy shortage, plant or animal infestation, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency", which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

B. "State of War Emergency" means a condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

C. "Local Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, civil unrest, drought, sudden and severe energy shortage, plant or animal infestation, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

D. "Operational Area" means an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area. Pursuant to Government Code Section 8559, each county is designated as an Operational Area. The Operational Area for the City of Santa Barbara is the County of Santa Barbara.

E. "Standardized Emergency Management System" (SEMS) means the system required to be established by Government Code Section 8607(a) for managing emergencies involving multiple jurisdictions and agencies.

F. Any other term or phrase used herein which is not defined herein but is defined within the Emergency Services Act, Government Code Section 8550, et seq., shall have the meaning ascribed therein. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.030 Emergency Services Council - Membership.

The Emergency Services Council is hereby created and shall consist of the following:

A. The City Administrator, who serves as Director of Emergency Services, shall be Chair.

B. The Emergency Services Manager, who serves as Vice-Chair.

C. The Chief of Police, the Fire Chief, the Director of Public Works, and such representatives of departments, services or divisions as are designated by the City Administrator.

D. Such representatives of the community as may be appointed by the City Administrator with the consent of the City Council. (Ord. 5594, 2012; Ord. 4158, 1982; Ord. 3769, 1975; Ord. 3082, 1965.)

9.116.040 Emergency Services Council - Powers and Duties.

It shall be the duty of the Santa Barbara Emergency Services Council, and it is hereby empowered, to review and recommend for adoption by the City Council emergency preparedness and mutual aid plans and agreements, and such ordinances and resolutions and rules as are necessary to implement such plans and agreements. The Emergency Services Council shall meet upon call of the Director of Emergency Services, or in his or her absence from the City or inability to call such meeting, the Assistant City Administrator, or, in the absence or inability of both the Director of Emergency Services and the Assistant City Administrator, the Emergency Services Manager. The Emergency Services Council shall be responsible for the development of the City of Santa Barbara Emergency Management Plan which shall provide for the effective mobilization of all the resources of the City, both public and private, to meet any condition constituting a Local Emergency, State of Emergency, or State of War Emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. The Emergency Management Plan shall take effect upon adoption by resolution of the City Council. (Ord. 5594, 2012; Ord. 4158, 1982, Ord. 3082, 1965.)

9.116.050 Director of Emergency Services - Powers and Duties.

The Director is hereby empowered:

A. To ask the City Council to proclaim the existence of a local emergency, if the City Council is in session.

B. To proclaim the existence of a local emergency, if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the local emergency shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council.

C. To ask the Governor, through the Operational Area (County), to proclaim a state of emergency when, in the opinion of the Director, the resources of the City or the Operational Area are inadequate to respond to the emergency.

D. To control and direct the effort of the Emergency Services Organization of the City for the accomplishment of the purposes of this ordinance.

E. To direct coordination and cooperation between divisions, services and staff of the Emergency Services Organization of the City and to resolve questions of authority or responsibility that may arise between them.

F. To use all City resources for the preservation of life and property and to reduce the effects of the emergency.

G. To represent the Emergency Services Organization of the City in all dealings with the public or private agencies pertaining to emergency services. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.060 Powers of Director During an Emergency.

In the event a local emergency is proclaimed as provided in this Chapter, or a state of emergency or a state of war emergency is proclaimed by the Governor or the Director of the California Office of Emergency Services, the Director is empowered:

A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergencies, provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.

B. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people and bind the City for the fair value thereof, and if required immediately, to commandeer the same for public use.

C. To require emergency services of any City officer or employee and, in the event of the proclamation of a state of emergency by the Governor in the region in which this City is located, to command the aid of as many citizens of this community as he or she thinks necessary in the execution of his or her duties; and such persons shall be entitled to all privileges, benefits and immunities as are provided by State law for registered Emergency Services volunteers.

D. To requisition necessary personnel or material of any City department or agency.

E. To execute all of his or her ordinary power as City Administrator, all of the special powers conferred upon him or her by this ordinance or by resolution adopted pursuant thereto, all powers conferred upon him or her by any statute, agreement approved by the City Council, or by any other lawful authority, and in conformity with Section 38791 of the Government Code, to exercise complete authority over the City and to exercise all Police power vested in the City by the Constitution and general laws. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.070 Emergency Services Organization.

All officers and employees of this City, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may by agreement or operation of law, including persons pressed into service under the provisions of Section 9.116.060.C be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the Emergency Services Organization of the City of Santa Barbara.

All volunteer forces enrolled to aid the City during an emergency will sign an oath and work as a disaster services worker for the duration of the incident in accordance with California Government Code Sections 3100-3109. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.080 Divisions, Services and Staff of the Emergency Services Organization.

The City Council shall pass a resolution adopting the City of Santa Barbara Emergency Management Plan and Local Hazard Mitigation Plan (Federal Disaster Management Act 2000). The Emergency Management Plan shall set forth the form of the Emergency Services Organization, establish and designate divisions and services, assign functions, duties and powers, and designate officers and employees. The Local Hazard Mitigation Plan will outline the natural, technological, and intentional threats to the City. Insofar as possible, the form of organization, titles and terminology shall conform to the state Standardized Emergency Management System (SEMS) and the recommendations of the counterpart Emergency and Disaster Agencies of the Federal Government and the State of California. (Ord. 5594, 2012; Ord. 4158, 1982; Ord. 3082, 1965.)

9.116.090 Line of Succession for Mayor During Emergency.

The line of succession for the position of Mayor, in the case of the absence or disability of the Mayor during a state of emergency, a state of war emergency, a local emergency, or other conditions of disaster, shall commence with the Mayor Pro Tempore and continue through the members of the City Council by seniority. If two members of the City Council have equal seniority, the member whose last name comes earlier alphabetically shall serve as Mayor. (Ord. 5594, 2012.)

9.116.100 Emergency Operation Centers.

Unless exigencies render the same impossible or unduly hazardous, the primary emergency operation center shall be maintained at Fire Station One. The alternate emergency operation center and subsequent disaster operation center are described in the City's Emergency Management Plan. Also, the checklist for setting up the emergency operation center and calling back personnel is specified in the Emergency Management Plan and emergency operation center activation plan. (Ord. 5594, 2012.)

9.116.110 Punishment of Violations.

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars ($500.00), or by imprisonment for not to exceed six (6) months, or both, for any person during a disaster:

A. Wilfully to obstruct, hinder or delay any member of the Emergency Services Organization in the enforcement of any lawful rule or regulation issued pursuant to this ordinance, or in the performance of any duty imposed upon him or her by virtue of this ordinance.

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this City, or to prevent, hinder or delay the defense or protection thereof.

C. To wear, carry or display, without authority, any means of identification specified by the Emergency Services Agency of the State. (Ord. 5594, 2012; Ord. 3082, 1965.)

Chapter 9.118

SUBPOENAS

Sections:

9.118.010 Authority of Board of Fire and Police Commissioners and Board of Civil Service Commissioners to Issue Subpoenas.
9.118.020 Signing, Attestation and Service.
9.118.030 Subpoena Duces Tecum - Affidavit, Prerequisite to Issuance.
9.118.040 Service of Affidavit - Validity.
9.118.050 Testimony of Persons in Attendance Who Were Not Subpoenaed.
9.118.060 Failure to Obey Subpoena or to Testify.
9.118.070 Issuance of Attachment of Person.
9.118.080 Jurisdiction After Attachment of Person.
9.118.090 Right of Person to Purge Himself of Contempt.

9.118.010 Authority of Board of Fire and Police Commissioners and Board of Civil Service Commissioners to Issue Subpoenas.

The Board of Fire and Police Commissioners and Board of Civil Service Commissioners created by the Charter may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding before them. (Prior Code §2.75.)

9.118.020 Signing, Attestation and Service.

Subpoenas issued by this chapter shall be signed by the City Administrator and attested by the City Clerk. They may be served as subpoenas are served in civil actions. (Prior Code §2.76.)

9.118.030 Subpoena Duces Tecum - Affidavit, Prerequisite to Issuance.

Subpoenas for the production of books or other documents for evidence shall not be signed by the City Administrator, unless the proposed subpoena is accompanied by an affidavit specifying the matters or things desired to be produced, and setting forth in full detail, the materiality thereof, to the issues involved in the action or proceeding, and stating that the witness has the desired matters or things in his possession or under his control. (Prior Code §2.77.)

9.118.040 Service of Affidavit - Validity.

The service of a subpoena duces tecum is invalid, unless at the time of such service, a copy of the affidavit upon which the subpoena was issued is served with the subpoena. (Prior Code §2.78.)

9.118.050 Testimony of Persons in Attendance Who Were Not Subpoenaed.

A person present at a hearing of either the Board of Fire and Police Commissioners or the Board of Civil Service Commissioners may be required to testify in the same manner as if he were in attendance upon a subpoena issued by such Board or Commission. (Prior Code §2.79.)

9.118.060 Failure to Obey Subpoena or to Testify.

If any person duly subpoenaed neglects or refuses to obey a subpoena or, appearing, refuses to testify or answer any questions which a majority of the Board decides are proper and pertinent, the City Administrator shall report the fact to a judge of the Superior Court of the County as contempt. (Prior Code §2.80.)

9.118.070 Issuance of Attachment of Person.

The judge shall issue an attachment directed to the sheriff of the county where the witness was required to appear and failed to do so as provided by Section 9.118.060, commanding him to attach the person, and forthwith bring him before the judge. (Prior Code §2.81.)

9.118.080 Jurisdiction After Attachment of Person.

On return of the attachment and production of the witness as provided by Section 9.118.070, the judge has jurisdiction. (Prior Code §2.82.)

9.118.090 Right of Person to Purge Himself of Contempt.

The right of a witness to purge himself of the contempt and the proceedings, penalties and punishment under this chapter shall be the same as if the contempt had been committed in a civil trial in a Superior Court. (Prior Code §2.83.)

CHAPTER 9.126

NON-DISCRIMINATORY EMPLOYMENT PROVISIONS FOR ALL CONTRACTS OF THE CITY

Sections:

9.126.010 Certificate Generally.
9.126.020 Contents of Certificate.
9.126.030 Application.

9.126.010 Certificate Generally.

Consistent with a policy of non-discrimination in employment on contracts of the City of Santa Barbara and in furtherance of the provisions of Sections 1735 and 1777.6 of the California Labor Code, a "Contractor's Obligation for Non-discriminatory Employment Certificate" as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all bid specifications and contracts of the City for purchases, services, and the construction, repair, or improvement of public works. (Ord. 3500 §1(part), 1972.)

9.126.020 Contents of Certificate.

The "contractor's obligation for non-discriminatory employment" is as follows:

In performing the work of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. The Contractor will take positive action or ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City advising the said labor union or worker's representative of the Contractor's commitments under this provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the City, the Fair Employment Practices Commission, or any other appropriate agency of the State designated by the City for the purposes of investigation to ascertain compliance with the Contractor's obligation for non-discriminatory employment provisions of this contract, or Fair Employment Practices statute.

(5) A finding of willful violation of the non-discriminatory employment practices article of this contract or of the Fair Employment Practices Act shall be regarded by the City as a basis for determining that as to future contracts for which the Contractor may submit bids, the Contractor is a "disqualified bidder" for being "non-responsible".

The City shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429.

Upon receipt of any such written notice, the City shall notify the Contractor that unless he demonstrates to the satisfaction of the City within a stated period that the violation has been corrected, he shall be declared a "disqualified bidder" until such time as the Contractor can demonstrate that he has implemented remedial measures, satisfactory to the City, to eliminate the discriminatory employment practices which constituted the violation found by the Fair Employment Practices Commission.

(6) Upon receipt from any person of a complaint of alleged discrimination under any City contract, the City Administrator shall ascertain whether probable cause for such complaint exists. If probable cause for the complaint is found, the Administrator shall request the City Council to hold a public hearing to determine the existence of a discriminatory practice in violation of this contract.

In addition to any other remedy or action provided by law or the terms of this contract, the Contractor agrees, that should the City Council determine after a public hearing duly noticed to the Contractor that the Contractor has not complied with the non-discriminatory employment practices provisions of this contract or has willfully violated such provisions, the City may, without liability of any kind, terminate, cancel or suspend this contract, in whole or in part. In addition, upon such determination the Contractor shall, as a penalty to the City, forfeit a penalty of $25.00 for each calendar day, or portion thereof, for each person who was denied employment as a result of such non-compliance. Such moneys shall be recovered from the Contractor. The City may deduct any such penalties from any moneys due the Contractor from the City.

(7) The Contractor certifies to the City that he has met or will meet the following standards for positive compliance, which shall be evaluated in each case by the City:

(a) The Contractor shall notify all supervisors, foremen and other personnel officers in writing of the content of the non-discrimination provision and their responsibilities under it.

(b) The Contractor shall notify all sources of employee referrals, (including unions, employment agencies, advertisements, Department of Employment) of the content of the non-discrimination provision.

(c) The Contractor shall file a basic compliance report as required by the City. Willful false statements made in such reports shall be punishable as provided by law. The compliance report shall also specify the sources of the work force and who has the responsibility for determining whom to hire, or whether or not to hire.

(d) The Contractor shall notify the City of opposition to the non-discrimination provision by individuals, firms or organizations during the period of this contract.

(8) Nothing contained in this Contractor's Obligation for Non-discriminatory Employment Certificate shall be construed in any manner to prevent the City from pursuing any other remedies that may be available at law.

(9) (a) In the performance of the work under this contract, the Contractor will include the provisions of the foregoing paragraphs (1) through (8) in all subcontracts and in any supply contract to be performed within the State of California, so that such provisions will be equally binding upon each subcontractor and each supplier.

(b) The Contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction by the City, the Contractor may request the City to enter into such litigation to protect the interests of the City. (Ord. 4465, 1987; Ord. 3500 §1(part), 1972.)

9.126.030 Application.

This chapter shall only apply to contracts entered into following the effective date of the ordinance codified in this chapter, provided that any existing contract which is renewed or extended pursuant to an option shall upon renewal or extension be subject to the terms of this chapter and, as a condition of renewal or extension, such contract shall be revised to incorporate the provisions required by this chapter. (Ord. 3500 §1,(part), 1972.)

Chapter 9.128

CITY SERVICE CONTRACTOR MANDATORY MINIMUM WAGE

Sections:

9.128.010 Definitions.
9.128.020 Minimum Local Wage Payment Requirements for City Service Contractors.
9.128.030 Supercession by Collective Bargaining Agreement.
9.128.040 Enforcement of Chapter Requirements.
9.128.050 Effective Date and Implementation.

9.128.010 Definitions.

Unless otherwise expressly stated or the context clearly requires otherwise, the following terms shall be defined as follows:

A. EMPLOYEE.

1. Generally. The term "Employee" shall refer only to those individuals who directly provide services to the City on behalf of a City Service Contractor and shall not include those employees who would typically be considered administrative or support staff employees, such as, but not limited to, employees performing administration, payroll, personnel, maintenance, or similar employee services for the Contractor. The term Employee shall also be used as that term is generally defined and used in the federal Fair Labors Standards Act of 1938 (29 USC Section 201 et seq., hereinafter the "FLSA") and shall not include those employed persons exempt from the minimum wage or overtime requirements of the FLSA or any person who works as an "executive" or "professional," as such terms are defined in the FLSA.

2. Exemption for Handicapped Individuals and Apprentices. For the purposes of this Chapter, an employee shall not include a "handicapped employee" employed pursuant to a special license issued under Sections 1191 and 1191.5 of the state Labor Code or an "apprentice" or "learner" employed pursuant to a special license issued under Section 1192 of the state Labor Code.

3. Exemption for Student Interns. For the purposes of this Chapter, an employee shall also not include a student intern which shall be defined as a person receiving educational or school credit at a duly licensed and accredited school or educational institution as part of or in connection with his or her employment or service with the City Service Contractor.

B. MANDATORY MINIMUM LOCAL WAGE. A wage payment at an hourly rate of Fourteen Dollars ($14.00) per hour, which wage amount shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%).

C. CITY SERVICE CONTRACTOR. A person or other legal entity (other than a public entity or a nonprofit entity) which enters into one or more contracts with the City to provide services to the City (other than recreation services to the public), where the amount paid by the City to the person or entity may exceed or exceeds Fifteen Thousand Dollars ($15,000) when such compensation is calculated on a City fiscal year basis. A City Service Contractor shall not include a contractor who provides services which are merely incidental to the City's purchase of goods or supplies from that Contractor, such as installation services related to the City's use of the goods or supplies being obtained.

D. BASIC MEDICAL INSURANCE COVERAGE. For the purposes of this Chapter, Basic Medical Insurance Coverage must include, but need not be limited to, offering the employee insurance coverage for the following health and medical care expenses of the Employee:

1. Emergency hospital care and hospitalization care with the payment of a patient co-pay amount not exceeding the maximum per emergency room visit and hospitalization care co-pay and patient deductible amount paid by a City employee under the City's medical insurance coverage plans;
2. Prescription medication coverage with the payment of a patient co-pay amount not exceeding the maximum per prescription co-pay and patient deductible amount paid by a City employee under the City's medical insurance coverage plans;
3. Access to preventative medical care by a licensed physician or surgeon with the payment of a co-pay and patient deductible amount not exceeding the maximum per visit co-pay amount paid by a City employee under the City's medical insurance coverage plans.

E. SUPPLEMENTAL EMPLOYEE BENEFITS COVERAGE. For the purposes of this Chapter, Supplemental Employee Benefits Coverage must include, in addition to Basic Medical Insurance Coverage and Compensated Leave for the Employee, offering to the Employee both of the following:

1. Basic Medical Insurance Coverage for the Employee's spouse, domestic partner, or family (at the Employee's option) with the Employee's share of the cost of the medical insurance coverage provided not exceeding five percent (5%) of the Employee's average gross monthly wages for the previous twelve months;

and at least one of the following additional supplemental Employee benefits:

2. An Employee pension or deferred compensation retirement plan under circumstances where the Service Contractor offers to make an Employer contribution to the plan of not less than five percent (5%) of the Employee's average gross monthly wages for the previous twelve (12) months, and where the plan is regulated and recognized by the federal Employee Retirement Income Security Program Act (hereinafter referred to as "ERISA," 29 USCA §1001 et seq.);

3. Child care or "dependent" care (or monetary assistance for child or dependent care needs) for a dependent(s) of the Employee under circumstances where the cost of the child or dependent care is funded or paid in full by the Employer and where the care is duly licensed and certified by the State. For the purposes of this Chapter, the term "dependent" shall be as that term is used and defined in the federal Internal Revenue Code.

4. The equivalent of Ten (10) Eight (8) hour days of Compensated Leave to the Employee over and above the Compensated Leave as such Compensated Leave is defined in Section 9.128.010(F) hereof.

5. Any additional employee benefit or employee benefit program which the City's Living Wage Advisory Committee, at the request of a City Service Contractor, deems appropriate to qualify as an optional Supplemental Employee Benefit under this subsection E. Examples of additional benefits or benefit programs which may qualify under this subparagraph would be the following: 1. dental insurance coverage for the Employee and the employee's family; 2. life and accidental death or disability insurance for the Employee; 3. medical or health insurance plans which provide out-patient services, such as physical therapy, speech therapy, or mental health or substance abuse counseling and assistance.

F. COMPENSATED LEAVE TIME. For the purposes of this Chapter, the term "Compensated Leave" shall mean the following:

1. Full-Time Employees. Providing not less than three (3) compensated days off per calendar quarter worked to each full-time Employee.

2. Part-Time Employees. Providing the appropriate pro-rated portion of the Compensated Leave required by Subsection (F)(1) above to each part-time Employee, with the pro-ration being that percentage of time the part-time Employee has worked per week (on average) during the previous twelve weeks, with forty hours per week being the equivalent of 100 percent.

3. Full-Time and Part-Time Employee Defined. For the purposes of this section, a "full-time" Employee shall mean an employee who has worked for the Service Contractor forty (40) or more hours per week on average for any ten (10) weeks of the previous twelve-week period. Any Employee who is not a full-time Employee is a part-time Employee.

"Compensated Leave" shall mean that the Employee is allowed leave time and is compensated at the same rate of pay which he or she would have received had they worked a regular day of work for each day of leave time used by the Employee.

Nothing herein shall preclude an Employer from imposing a minimum employment period upon the use of compensated leave provided such minimum period is consistent with the requirements of state law. (Ord. 5384, 2006.)

9.128.020 Minimum Local Wage Payment Requirements for City Service Contractors.

A. MANDATORY MINIMUM LOCAL WAGE.

1. City-Owned or -Operated Work Buildings and Locations. Except as provided in Subsections (B) and (C) hereof, any City Service Contractor providing services to the City shall pay at least the Mandatory Minimum Local Wage to all Employees of the Service Contractor who work at a building, site, or location owned or operated by the City for those hours of the Employee's work at the City building, site, or location and for those work hours at other work locations which can be directly attributed to the services provided to the City by the Service Contractor.

2. Work Sites Located at Non-City-Owned or -Operated Sites. Except as provided in Subsections (B) and (C) hereof, for those City Service Contractors where the work performed under a City Service Contract does not occur at a building, site, or location owned or operated by the City, the Service Contractor shall pay a Mandatory Minimum Local Wage to all Employees for those hours of the Employee's work which can be directly attributed to the services provided to the City by the Service Contractor.

B. EMPLOYEES RECEIVING BASIC MEDICAL INSURANCE COVERAGE AND COMPENSATED HOLIDAYS. City Service Contractors subject to the Mandatory Minimum Local Wage requirement of Subsection (A) hereof which provide an Employee with both Basic Medical Insurance Coverage at no cost to the Employee and Compensated Time-Off may pay a hourly wage of not less than Twelve Dollars ($12.00) to the Employee instead of the Mandatory Local Minimum Wage, which wage amount shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%).

C. EMPLOYEES RECEIVING SUPPLEMENTAL EMPLOYEE BENEFITS IN ADDITION TO BASIC INSURANCE COVERAGE. City Service Contractors subject to the Mandatory Local Minimum Wage requirement of Subsection (A) hereof which provide Supplemental Employee Benefits Coverage may pay an hourly wage of not less than Eleven Dollars ($11.00) instead of the Mandatory Local Minimum Wage, which wage amount shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%).

D. ADJUSTMENT OF SERVICE CONTRACT AMOUNT. The service contract amount set in Section 9.128.010(C) hereof shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%). (Ord. 5384, 2006.)

9.128.030 Supercession by Collective Bargaining Agreement.

The provisions of this Chapter, or any part thereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth in such collective bargaining agreement in express written terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute an express waiver of all or any part of the provisions of this Chapter by the represented employees. (Ord. 5384, 2006.)

9.128.040 Enforcement of Chapter Requirements.

A. COMPLIANCE – CONTRACTUAL OBLIGATION. Every City Service Contract (or any amendment thereto) shall contain express contract provisions requiring the City Service Contractor (as well as all subcontractors, agents, or assignees of the Service Contractor which perform work for the City pursuant to the Service Contract) to comply with the requirements of this Chapter as they exist on the date when the Contractor entered into its Contract or the date when such Contract is amended.

A breach of the applicable requirements of this Chapter, as determined by the City, shall constitute a breach of the Service Contract and may, as shall be expressly provided in all City Service Contracts, be the basis for an immediate termination of the Service Contract in the sole discretion of the City. In the event of a breach of Service Contract for non-compliance with this Chapter, the City may also elect to preclude future City contracts with the non-complying Service Contractor.

B. PAYROLL AND OTHER RECORDKEEPING REQUIREMENTS. City Service Contractors shall maintain adequate payroll, tax, time sheets, personnel, and work records sufficient to allow the City to verify the Contractor's compliance with the requirements of this Chapter. Such records shall be maintained for a period of two (2) years after the completion of the City's contract and shall be made available for review by the City upon the City's request.

C. AUDIT OF PAYROLL AND OTHER RECORDS. The City shall have the right of access to the employee time and work records required by this Section for the purposes of conducting an audit of such records to determine compliance with the requirements of this Chapter during the time the Service Contract is in effect and for a period of two (2) years after the completion of any City Service Contract.

D. PERIODIC CERTIFICATION OF COMPLIANCE. The standard City Service Contract provisions shall also require the Service Contractor to periodically provide an appropriate written certification to the City Finance Department certifying the Contractor's compliance with the terms of this Chapter in a form deemed appropriate by the City Finance Director and at those regular times deemed appropriate by the Finance Director. Such certification may include copies of the Employee time and work records as the City deems appropriate and necessary to verify the Contractor's full compliance with the terms of this Chapter.

E. EMPLOYEE PRIVATE RIGHT OF ACTION. Nothing in this Chapter shall be construed to limit an Employee's right to initiate legal action for a violation of his or her rights under this Chapter. An Employee may bring an action in a court of appropriate jurisdiction of this State for damages caused by a Service Contractor's violation of the requirements of this Chapter. A final court judgment in favor of an Employee establishing that a Service Contractor has violated the requirements of this Chapter shall be deemed a conclusive determination that the Contractor has violated this Chapter and shall allow the City, at the City's discretion, to terminate a Service Contract for breach upon not less than five (5) days written notice to the Contractor. (Ord. 5384, 2006.)

9.128.050 Effective Date and Implementation.

The obligations imposed by this Chapter shall take effect as of the effective date of the ordinance codifying this Chapter and shall apply to those City Service Contracts approved (or substantively amended) by the City on or after that date. (Ord. 5384, 2006.)

Chapter 9.130

NON-DISCRIMINATORY PROVISIONS FOR LEASES

Sections:

9.130.010 Certificate Generally.
9.130.020 Contents of Certificate.
9.130.030 Application.

9.130.010 Certificate Generally.

Consistent with a policy of non-discrimination in the use of real or personal property owned by the City of Santa Barbara a "lessee's obligation for non-discrimination certificate", as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all leases of City owned real or personal property. (Ord. 3501 §1(part), 1972.)

9.130.020 Contents of Certificate.

The "lessee's obligation for non-discrimination" is as follows:

(a) Lessee in the use of the property which is the subject of this lease or in the operations to be conducted pursuant to the provisions of this lease, will not discriminate or permit discrimination against any person or class of persons by reason of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Sections 12900 - 12996) except where such discrimination is related to bona fide occupational qualification.

(b) Lessee shall furnish its accommodations and services on a fair, equal and non-discriminatory basis to all users thereof and lessee shall only charge fair, reason-able and non-discriminatory prices for each unit of service.

Lessee may make reasonable and non-discriminatory rebates, discounts or other similar price reductions to volume purchasers to the extent permitted by law.

(c) Lessee shall make its accommodations and services available to the public on fair and reasonable terms without discrimination on the basis of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Sections 12900 - 12996) except where such discrimination is related to bona fide occupational qualification.

(d) Lessee shall not discriminate or allow discrimination either directly or indirectly, in hiring or employing persons to work on the leased premises.

(e) Lessee agrees that it shall insert the above articles in any agreement by which said Lessee transfers any interest herein or grants a right or privilege to any person, firm or corporation to use the leased premises or to render accommodations and services to the public on the leased premises.

(f) Non-compliance with provisions (a), (b), (c), (d), and (e) above shall constitute a material breach hereof and in addition to any other remedies provided by law or this lease, in the event of such non-compliance the Lessor shall have the right to terminate this lease and the interest hereby created without liability therefor, or at the election of the Lessor, the Lessor shall have the right to enforce judicially said provisions (a), (b), (c), (d), and (e).

In the event the Lessee is found to have failed to comply with the provisions of articles (a), (b), (c), (d), and (e) and notwithstanding any other remedy pursued by Lessor, the Lessee shall pay to the Lessor the sum of $25.00 per day for each incident of a failure to comply. (Ord. 4465, 1987; Ord. 3501 §1(part), 1972.)

9.130.030 Application.

This chapter shall apply to new leases only after the effective date of the ordinance codified in this chapter and shall apply to existing leases upon any renewal of the term thereof after the effective date of the ordinance codified in this chapter. (Ord. 3501 §1(part), 1972.)

Chapter 9.132

AIDS/HIV DISCRIMINATION

Sections:

9.132.010	**Findings.**	**9.132.070**	**City Facilities and Services.**
9.132.020	**Purpose and Public Policy.**	**9.132.080**	**Employment.**
9.132.030	**Definitions.**	**9.132.090**	**Advertising.**
9.132.040	**Housing Accommodations and Housing Services.**	**9.132.100**	**Testing.**
		9.132.110	**Exceptions.**
9.132.050	**Business Establishments.**	**9.132.120**	**Liability and Damages.**
9.132.060	**Medical Services.**	**9.132.130**	**Enforcement.**

9.132.010 Findings.

The City Council finds and declares that:

A. The medical condition known as Acquired Immune Deficiency Syndrome, (commonly known as AIDS/HIV infection), is a deadly communicable disease and has the potential to affect every segment of our City's population.

B. AIDS/HIV infection was first recognized in 1981 by the United States Public Health Service's Center for Disease Control.

C. AIDS, in the opinion of the scientific and medical community, is caused by a virus, known as HIV infection (Human Immunodeficiency Virus) (or in the past, HTLV-III or LAV), which attacks and cripples the body's immune system and neurological system, thereby leaving the body vulnerable to opportunistic infections, certain cancers and neurological diseases.

D. A person afflicted with AIDS/HIV infection can suffer a variety of bacterial, viral, and/or fungal caused illnesses, cancers, protozoan and neurological conditions which debilitate the body resulting in a high mortality rate within several years after diagnosis.

E. The transmission of the virus has occurred through transfer of body fluids, for example blood, blood by-products, body organs and semen. Body fluids can be transferred through intimate sexual contact, through the sharing of hypodermic needles used in drug injections and through to a fetus and/or newborn infant from the mother.

F. No evidence exists to indicate the spread of the virus through casual contact, such as contact at work or at school, through the air or water or through the handling of food by persons having the AIDS virus.

G. Medical studies of family groups in which one or more persons have been diagnosed with AIDS/HIV infection show no spread of the virus except through the exchange of body fluid such as through sexual intimacy, through mother's milk, or through the exchange of blood, such as mother to fetus.

H. A public health danger represented by the HIV virus and its subsequent manifestation as AIDS is caused by the lengthy incubation period during which period an apparently healthy but infected individual may spread the disease to other persons through the transfer of body fluids such as blood, blood by-products, body organs, semen, or vaginal/cervical secretions, perinatally or through the sharing of hypodermic needles used in drug injections.

I. AIDS has been recognized as a national public health emergency with a large proportion of the cases diagnosed in California.

J. AIDS, in the opinion of the scientific and medical community, will continue to increase at a high rate within our City for the foreseeable future.

K. Persons with AIDS, AIDS-related complex (ARC), including persons infected with the HIV virus who may not show AIDS symptoms, or those perceived to fall into one of the above STATED CATEGORIES, are faced with potential discrimination, and such potential for discrimination is sufficient to justify a City ordinance to prohibit those discriminatory practices which are not currently adequately addressed by federal and state law. (Ord. 4758; 1992.)

9.132.020 Purpose and Public Policy.

It is hereby declared as the public policy of the City of Santa Barbara that it is necessary to protect and safeguard the rights and opportunities of persons with AIDS, ARC or HIV infection in respect to discrimination in housing, business establishments, testing, access to medical services and in City facilities and services. (Ord. 4758, 1992.)

9.132.030 Definitions.

A. "AIDS" means Acquired Immune Deficiency Syndrome, a disease complex which occurs when an important part of the human immune system is destroyed by the action of a human immune deficiency virus known as HIV infection and previously referred to as HTLV-III or LAV and as it may be further defined by the United States Public Health Services Center for Disease Control. AIDS is manifested by infections, cancers or neurological diseases. (For purposes of this Chapter, a person is regarded as having AIDS, ARC, or being infected with the virus (HIV infection) that causes AIDS if such person is perceived and treated by an alleged violator of the provisions of this Chapter as having AIDS, ARC, or being infected with the virus that causes AIDS, whether such medical condition exists or not.)

B. "ARC" means AIDS-related complex. ARC occurs when the human immune system is weakened by the AIDS virus, and such conditions as enlarged lymph-nodes, fever, weight loss, malaise, and chronic diarrhea result. ARC may develop into AIDS.

C. "Business Establishment" includes any entity, however organized, which furnishes goods or services, including educational services, or accommodations to the general public; including any entity which has a membership requirement if its membership requirement consists only of the payment of a membership fee and a substantial number of residents within the City of Santa Barbara could qualify.

D. "Employee" includes any person employed by an employer.

E. "Employer" means any person regularly employing one or more persons, or any person acting as an agent of an employer, directly or indirectly.

F. "Employment agency" means any person regularly undertaking compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

G. "HIV infected" means a person infected with the human immune deficiency virus.

H. "Housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons.

I. "Housing Services" shall mean services otherwise provided by the owner of any housing accommodations to persons renting or leasing such housing accommodation, including but not limited to, utilities such as light, heat, water and telephone; ordinary repairs or replacement, and maintenance, including painting; elevator services, laundry facilities and privileges, the use of common recreational facilities, janitorial services, resident manager, refuse removal, furnishings, food service, parking and other benefits, privileges or facilities provided.

J. "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

K. "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations.

L. "Person" includes one or more individuals, partnerships, associations, corporations, labor organizations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

M. "Medical Services" shall mean any public or private service provided by volunteers or paid professionals caring for the injured, or sick in relation to health, medicine, science or the treatment of disease. (Ord. 4758, 1992.)

9.132.040 Housing Accommodations and Housing Services.

A. It shall be unlawful for any owner of any housing accommodation or housing service to discriminate against any person because such person has AIDS, ARC or HIV infection.

B. Nothing in this Section shall:

1. Apply to any housing accommodation in which the owner or any member of his or her family occupies the same housing accommodation in common with the prospective tenant. This exception shall not apply where the owner occupies a separate apartment, condominium or other housing unit in a multiple-unit complex.

2. Permit or require the rental or occupancy of any housing accommodation otherwise prohibited by law.

3. Otherwise interfere with any just cause for an owner to evict a person from any housing accommodation or permit the delay of any unlawful detainer action.

4. Require the renting of any housing accommodation reserved for the housing of students to non-student persons with AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.050 Business Establishments.

It shall be unlawful for any person to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment on the grounds that such person has AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.060 Medical Services.

It shall be unlawful for any paid or unpaid professional, or medical establishment, or institution, public or private, to deny any person full and equal medical services, advantages or accommodations based upon the grounds that such person has AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.070 City Facilities and Services.

A. It shall be unlawful to deny any person the full and equal enjoyment of, or to impose less advantageous terms, or restrict the availability of, the use of any City facility or participation in any City funded or supported service or program on the grounds that such person has AIDS, ARC or HIV infection.

B. Nothing in this Section shall:

1. Apply to any facility, service or program which does not receive any assistance from the City and which is not open to or provided to the public generally;

2. Restrict services or programs specifically designed for persons with AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.080 Employment.

A. It shall be unlawful:

1. For an employer:

a. To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to compensation, terms, conditions, or privileges of employment, on the basis that such person has AIDS, ARC or HIV infection; or

b. To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect any person's status as an employee, on the basis that such person has AIDS, ARC or HIV infection.

2. For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any person, or to classify or refer for employment any person on the basis that such person has AIDS, ARC or HIV infection.

3. For a labor organization:

a. To exclude or to expel from its membership or otherwise to discriminate against, any person on the basis that such person has AIDS, ARC or HIV infection;

b. To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive any person of employment opportunities, or would limit such employment opportunities or otherwise adversely affect a person's status as an employee or as an applicant for employment, on the basis that such person has AIDS, ARC or HIV infection; or

c. To cause or attempt to cause an employer to discriminate against any person in violation of this Section.

4. For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any person on the basis of AIDS, ARC or HIV infection in admission to, or employment in, any program established to provide apprenticeship or other training.

B. Notwithstanding any other provision of this Chapter, it shall not be unlawful:

1. For an employer to hire, employ, discharge, retire and reassign employees, for an employment agency to classify, or to refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis that such person has AIDS, ARC or HIV infection in those certain instances where the employer can show that the absence of AIDS, ARC or HIV infection is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate against a person on the basis that such person has AIDS, ARC or HIV infection.

3. For an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results of such tests is not designed, intended or used to discriminate against a person on the basis that such person has AIDS, ARC or HIV infection.
(Ord. 4758, 1992.)

9.132.090 Advertising.

It shall be unlawful to make, print, publish, advertise or disseminate in any way, or cause to be made, printed, published, advertised or disseminated in any way, any notice, statement, sign, advertisement, application or contract which indicates an intent to engage in any practice made unlawful by this Chapter. (Ord. 4758, 1992.)

9.132.100 Testing.

A. It shall be unlawful for any person to require another person to take any test or undergo any medical procedure that may be useful to determine that a person has AIDS or ARC or HIV infection.

B. Nothing in this Section shall:

1. Prohibit any testing or medical procedure authorized by the laws of the United States, the State of California or the City of Santa Barbara, or any testing or medical procedure required by the County Department of Health Services to protect the public health; or

2. Apply to an employer who can show that the absence of AIDS, ARC or the AIDS virus (HIV infection) is a bona fide occupational qualification. (Ord. 4758, 1992.)

9.132.110 Exceptions.

A. Nothing in this Chapter shall be construed to prohibit any act specifically authorized by the laws of the United States, the State of California or the City of Santa Barbara, or any act required by the County Department of Health Services to protect the public health.

B. Nothing in this Chapter shall prohibit any act which is necessary to protect the health or safety of the general public. If a party to any action brought under this Chapter asserts that an otherwise discriminatory practice is justified as necessary to protect the health or safety of the general public, that party shall have the burden of proving:

1. that the discrimination is in fact a necessary result of a necessary course of conduct pursued to protect the health or safety of the general public; and

2. that there exists no less discriminatory means of satisfying the necessary protection of the health or safety of the general public. (Ord. 4758, 1992.)

9.132.120 Liability and Damages.

Any person who violates any of the provisions of this Chapter or who assists in the violation of any of the provisions of this Chapter is liable for each and every such offense for damages up to a maximum of three times the amount of actual damages, tort damages plus punitive damages, as may be determined by a jury or a court sitting without a jury, and for costs, including reasonable attorney's fees, as may be determined by the court. (Ord. 4758, 1992.)

9.132.130 Enforcement.

A. Any aggrieved person may enforce the provisions of this Chapter by means of a civil action.

B. Any person who commits, or proposes to commit, an act in violation of this Chapter may be enjoined therefrom by a court of competent jurisdiction.

C. An action for injunction under subdivision B may be brought by any aggrieved person or by any person or entity which will fairly and adequately represent the interests of the aggrieved person.

D. Nothing in this Chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

E. An action arising under this Chapter shall not be rendered moot because of the death or physical or mental incapacity of the person who was the subject of the claimed discrimination.

F. Notwithstanding Section 1.28.010 of the Santa Barbara Municipal Code, no criminal penalties shall attach for any violation of the provisions of this Chapter. (Ord. 4758, 1992.)

Chapter 9.135

REGISTRATION OF DOMESTIC PARTNERSHIPS

Section:
9.135.010 Registration of Domestic Partnerships with the City Clerk.

9.135.010 Registration of Domestic Partnerships with the City Clerk.

A. **Domestic Partnership Defined; City Clerk Registration.** Two persons may declare that a "Domestic Partnership" exists between them regardless of their gender, and each of them shall be the "domestic partner" of the other if they both complete, sign, and cause to be filed with the City Clerk of the City an "Affidavit of Domestic Partnership" attesting to the following:

1. The two parties reside together and share the common necessities of life.
2. The two parties are not married to anyone.
3. The two parties are at least eighteen (18) years of age or older.
4. The two parties are not related by blood so close as to bar marriage in the State of California and are mentally competent to consent to contract.
5. The two parties are each other's sole domestic partner and intend to remain so indefinitely and are responsible for their common welfare.
6. The two parties agree to file a Statement of Termination of Domestic Partnership with the City Clerk if any of the declarations of the Affidavit of Domestic Partnership cease to be true.
7. The two parties understand that the registration of the Affidavit of Domestic Partnership with the City Clerk constitutes a filing of a domestic partnership of continuous duration until either of the parties files a Statement of Termination or upon the death of either of the parties.
8. Neither of the parties has filed a Statement of Termination within the previous six (6) months.
9. The two parties understand that they are solely responsible for any and all statements made in an Affidavit of Domestic Partnership, and for any losses or damages caused thereby, and that they will hold the City of Santa Barbara harmless from any liability arising out of or relating to any Affidavit of Domestic Partnership that is filed with the City of Santa Barbara.

B. **Termination of a Domestic Partnership.** A member of a domestic partnership may end said relationship by filing a Statement of Termination of Domestic Partnership with the City Clerk. In the Statement of Termination, the individual will be required to affirm under penalty of perjury that the partnership is terminated. In case of the death of either party to a Domestic Partnership, a Statement of Termination is not required to be filed.

C. **Filing of Subsequent Affidavits of Domestic Partner Relationship.** No individual who has filed an Affidavit of Domestic Partnership may file another such Affidavit until one hundred eighty (180) days after a Statement of Termination of Domestic Partnership terminating the previous partnership has been filed with the City Clerk.

D. **Reciprocity with Other Communities.** Upon written request, the City Clerk shall confirm the registration of a domestic partnership registered in another community pursuant to the applicable regulations of that community and issue a City of Santa Barbara Certificate of Domestic Partnership for the same individuals. A lesser fee shall be charged for such a Certificate in an amount established by resolution of the City Council.

E. **Administrative Procedures and Fees.** The City Council shall adopt administrative procedures for the processing of domestic partner relationship certificates by the City Clerk's office and establishing the fees applicable to such registrations by resolution of the Council.

F. **No Cause of Action.** This Chapter is not intended to create any private or public cause of action for any person or entity.

(Ord. 5012, 1997.)

Chapter 9.140

SOLICITATION OF EMPLOYMENT, BUSINESS OR CONTRIBUTIONS FROM STREETS

Sections:

9.140.010 Definitions.
9.140.015 Legislative Purpose.
9.140.020 Prohibition of Solicitation in Public Roadway.

9.140.010 Definitions.

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

A. **BUSINESS.** Any type of product, goods, service, performance or activity which is provided or performed or offered to be provided or performed in exchange for money, labor, goods, or any other form of consideration.

B. **EMPLOYMENT.** The service, industry or labor performed by a person for wages or other compensation or under any contract of hire written or oral, express or implied.

C. **OCCUPANT.** A person who occupies a vehicle.

D. **PEDESTRIAN.** As defined in California Vehicle Code Section 467 as the same now reads or may hereafter be amended.

E. **PERSON.** Any individual, company, corporation, association, business or other legal entity.

F. **ROADWAY.** That portion of the street which is improved, designed or ordinarily used exclusively for vehicular travel.

G. **SOLICIT.** Any request, offer, enticement, or action which announces the availability for or of employment, the sale of goods, or a request for money or other property, or any request, offer, enticement or action which seeks to purchase or secure goods or employment, or to make a contribution of money or other property. As defined herein, a solicitation shall be deemed complete when made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money or other property takes place.

H. **STREET.** A way or place of whatever nature, publicly maintained and open to the use of the public for the purpose of vehicular travel. For the purposes of this chapter, street includes highway and any parking area or lot owned or operated by the City of Santa Barbara or the Santa Barbara Redevelopment Agency.

I. **VEHICLE.** As defined in California Vehicle Code Section 670 as the same now reads or may hereafter be amended. (Ord. 5414, 2007; Ord. 5067, 1998.)

9.140.015 Legislative Purpose.

The purpose of this chapter is to protect the health and welfare of the general public and to promote safer and more efficient traffic flow by reasonably regulating the time, place, and manner of the solicitation of employment, business, or contributions of money or other property from pedestrians and occupants of vehicles on public streets. These regulations are intended to be content neutral and are not intended to restrict the right of free speech or alternative channels of such communication in other areas. (Ord. 5414, 2007.)

9.140.020 Prohibition of Solicitation in Public Roadway.

A. **SOLICITATIONS BY PEDESTRIANS.** It shall be unlawful for any person, while located in any portion of the public roadway to solicit (or attempt to solicit) employment, business or contributions of money or other property from any person traveling in a vehicle along a public roadway unless the vehicle is legally parked or stopped within the roadway.

B. **SOLICITATIONS FROM A VEHICLE.** It shall be unlawful for any person while the occupant of a vehicle that is not legally parked or stopped within a roadway, to solicit (or attempt to solicit) employment, business or contributions of money or other property from a person who is located within a public right-of-way including, but not limited to, any street, roadway, sidewalk, parkway, alley or driveway.

C. **YANONALI STREET.** This section shall not apply to that portion of the south side of Yanonali Street (approximately 170 feet in length) between the Laguna Channel and the west gate drive-way entrance to the City's Corporation Yard Annex at 401 East Yanonali Street, as such area is more specifically designated on signs posted at that location. (Ord. 5414, 2007; Ord. 5067, 1998.)

Chapter 9.145

LOWEST LAW ENFORCEMENT PRIORITY POLICY ORDINANCE

Sections:

9.145.010 Title.
9.145.020 Purpose.
9.145.030 Findings.
9.145.040 Definitions.
9.145.050 Lowest Law Enforcement Priority Policy.
9.145.060 Community Oversight.
9.145.070 Notification of Federal and State Officials.
9.145.080 Enforceability.
9.145.090 Severability.

9.145.010 Title.

This chapter shall be known as the Lowest Law Enforcement Priority Policy Ordinance. (Approved by election held November 7, 2006.)

9.145.020 Purpose.

The purpose of this chapter is:

A. To make investigations, citations, arrests, property seizures, and prosecutions for adult marijuana offenses, where the marijuana was intended for adult personal use, the city of Santa Barbara's lowest law enforcement priority; and

B. To transmit notification of the enactment of this initiative to state and federal elected officials who represent the city of Santa Barbara. (Approved by election held November 7, 2006.)

9.145.030 Findings.

A. The federal government's war on drugs has failed.

B. Santa Barbara should determine its marijuana policies locally, not hand them over to the federal Drug Enforcement Administration.

C. Otherwise law-abiding adults are being arrested and imprisoned for nonviolent marijuana offenses, which is clogging courts and jails in California.

D. Each year, California spends more than $150 million of taxpayer money enforcing marijuana laws.

E. Law enforcement resources would be better-spent fighting serious and violent crimes.

F. Making adult marijuana offenses Santa Barbara's lowest law enforcement priority will reduce the city's spending on law enforcement and punishment.

G. Decades of arresting millions of marijuana users have failed to control marijuana use or reduce its availability.

H. Current marijuana policies continue to needlessly harm medical marijuana patients, despite the passage of Proposition 215, which affirmed California voters' support for medical marijuana. (Approved by election held November 7, 2006.)

9.145.040 Definitions.

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

A. "Adult" means an individual who is 21 years of age or older.

B. "Santa Barbara law enforcement officer" means a member of the Santa Barbara Police Department or any other city agency or department that engages in law enforcement activity.

C. "Lowest law enforcement priority" means a priority such that all law enforcement activities related to all offenses other than adult, personal-use marijuana offenses shall be a higher priority than all law enforcement activities related to marijuana offenses, where the marijuana was intended for adult personal use, other than the exceptions designated in this chapter.

D. "Marijuana" means all parts of the cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. (Approved by election held November 7, 2006.)

9.145.050 Lowest Law Enforcement Priority Policy.

A. Santa Barbara law enforcement officers shall make law enforcement activity relating to marijuana offenses, where the marijuana was intended for adult personal use, their lowest law enforcement priority. Law enforcement activities relating to marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana offenses.

B. This lowest law enforcement priority policy shall not apply to use of marijuana on public property or driving under the influence.

C. The lowest law enforcement priority policy shall apply to cooperating with state or federal agents to arrest, cite, investigate, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy.

D. Santa Barbara law enforcement officers shall not accept or renew formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for marijuana offenses included in the lowest law enforcement priority policy.

E. Santa Barbara shall not accept any federal funding that would be used to investigate, cite, arrest, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy. (Approved by election held November 7, 2006.)

9.145.060 Community Oversight.

A. The committee will be composed of two city residents; one criminal defense attorney; one civil liberties advocate; one medical marijuana patient; one medical professional; and one drug abuse, treatment, and prevention counselor, each of whom shall be appointed by the Santa Barbara mayor. The committee members shall serve at the pleasure of the Santa Barbara mayor, who shall appoint replacement committee members on an as-needed basis. The Santa Barbara Police Department, the Santa Barbara County Public Health Department, and the Santa Barbara County District Attorney's Office shall each send one representative as a nonvoting liaison to each of the committee's meetings.

B. Responsibilities of the committee shall include:

1. ensuring timely implementation of this chapter, with the cooperation of the Santa Barbara County District Attorney's Office, the Santa Barbara Police Department, and any other Santa Barbara law enforcement agencies in providing needed data;

2. receiving any grievances from individuals who believe they were subjected to law enforcement activity contrary to the lowest law enforcement priority policy;

3. designing a supplemental report form for Santa Barbara law enforcement officers to use to report all adult marijuana arrests, citations, and property seizures and all instances of officers assisting in state or federal arrests, citations, and property seizures for any adult marijuana offenses. The supplemental report form shall be designed with the goal of allowing the committee to ascertain whether the lowest law enforcement priority policy was followed;

4. requesting additional information from any Santa Barbara law enforcement officer who engaged in law enforcement activity relating to one or more marijuana offenses under circumstances which appear to violate the lowest law enforcement priority policy. An officer's decision not to provide additional information shall not be grounds for discipline; and

5. submitting written reports semiannually to the Santa Barbara City Council on the implementation of this ordinance, with the first report being issued nine months after the enactment of this chapter. These reports shall include, but not necessarily be limited to: the number of all arrests, citations, property seizures, and prosecutions for marijuana offenses in Santa Barbara; the breakdown of arrests and citations by race, age, specific charge, and classification as infraction, misdemeanor, or felony; any instances of law enforcement activity that the committee believes violated the lowest law enforcement priority policy; and the estimated time and money spent by the city on law enforcement and punishment for adult marijuana offenses.

C. Santa Barbara law enforcement officers shall submit to the committee a supplemental report within two weeks after each adult marijuana arrest, citation, or property seizure or instance of assisting in a state or federal arrest, citation, or property seizure for any adult marijuana offense in Santa Barbara. (Approved by election held November 7, 2006.)

9.145.070 Notification of Federal and State Officials.

Beginning three months after the enactment of this chapter, the city clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to Santa Barbara voters' U.S. representative or representatives, both of California's U.S. senators, Santa Barbara voters' senators and Assembly members in the California State Legislature, the governor of California, and the president of the United States. This letter shall state, "The citizens of Santa Barbara have passed an initiative to de-prioritize adult marijuana offenses, where the marijuana is intended for personal use, and request that the federal and California state governments take immediate steps to enact similar laws." This duty shall be carried out until state and federal laws are changed accordingly. (Approved by election held November 7, 2006.)

9.145.080 Enforceability.

All sections of this chapter are mandatory. If any provision of this chapter is not carried out properly, any person who is registered to vote in Santa Barbara may seek a writ of mandate to ensure the law is fully implemented. (Approved by election held November 7, 2006.)

9.145.090 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby. (Approved by election held November 7, 2006.)

Chapter 9.150

SINGLE-USE CARRYOUT BAGS

Sections:

9.150.010 Definitions.
9.150.020 Plastic Carryout Bags Prohibited.
9.150.030 Permitted Bags.
9.150.040 Regulation of Recyclable Paper Carryout Bags.
9.150.050 Use of Reusable Bags.
9.150.060 Exempt Customers.
9.150.070 Enforcement and Violations – Penalties.
9.150.080 Operative Date.

9.150.010 Definitions.

The following definitions apply to this Chapter:

A. Customer. Any person purchasing goods from a store.

B. Operator. The person in control of, or having the responsibility for, the operation of a store, which may include, but is not limited to, the owner of the store.

C. Person. Any natural person, firm, corporation, partnership, or other organization or group however organized.

D. Plastic carryout bag. Any bag made predominantly of plastic derived from either petroleum, natural gas, or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.

E. Post-consumer recycled material. A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

F. Produce bag or product bag. Any bag without handles used exclusively to carry produce, meats, or other food items from a display case within a store to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

G. Recyclable. Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

H. Recyclable paper carryout bag. A paper bag (of any size) that meets all of the following requirements: 1. contains no old growth fiber; 2. is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; 3. is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; 4. is accepted for recycling in curbside programs in the City; 5. has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of post-consumer recycled material used; and 6. displays the word "Recyclable" in a highly visible manner on the outside of the bag.

I. Reusable bag. A bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: 1. has a minimum lifetime of 125 uses, which for purposes of this subsection means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; 2. has a minimum volume of 15 liters; 3. is machine washable or is made from a material that can be cleaned or disinfected; 4. does not contain lead, cadmium, or any other heavy metal in toxic amounts; 5. has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of post-consumer recycled material used, if any; and 6. if made of plastic, is a minimum of at least 2.25 mils thick.

J. Store. Any of the following retail establishments located and operating within the City:

1. A store of at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200 of Division 2 of the Revenue and Taxation Code) and which sells a line of dry grocery or canned goods, or non-food items together with some perishable food items or a store that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or

2. A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other similar retail store or entity engaged in the retail sale of a limited line of grocery items or goods which typically includes, but is not limited to, milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 liquor license issued by the state Department of Alcoholic Beverage Control. (Ord. 5636, 2013.)

9.150.020 Plastic Carryout Bags Prohibited.

A. No store shall provide any customer with a plastic carryout bag.

B. The prohibition on providing plastic carryout bags applies only to bags provided by a store for the purpose of carrying away goods from the point of sale within the store and does not apply to produce bags or product bags supplied by a store. (Ord. 5636, 2013.)

9.150.030 Permitted Bags.

All stores shall provide or make available to a customer only recyclable paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter prohibits customers from using bags of any type which the customer may bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store. (Ord. 5636, 2013.)

9.150.040 Regulation of Recyclable Paper Carryout Bags.

A. Any store that provides a recyclable paper carryout bag to a customer must charge the customer ten cents ($0.10) for each bag provided, except as otherwise allowed by this Chapter.

B. No store shall rebate or otherwise reimburse a customer any portion of the ten cent ($0.10) charge required in subparagraph A, except as otherwise allowed by this Chapter.

C. All stores must indicate on the customer receipt the number of recyclable paper carryout bags provided and the total amount charged the customer for such bags.

D. All charges collected by a store under this Chapter may be retained by the store and used for one or more of the following purposes: 1. the costs associated with complying with the requirements of this Chapter; 2. the actual costs of providing recyclable paper carryout bags; 3. the costs of providing low or no-cost reusable bags to customers of the store who are exempted by Section 9.150.060; or 4. the costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All stores shall report to the City Finance Director, on an annual (calendar year) basis, the total number of recyclable paper carryout bags provided, the total amount of monies collected for providing recyclable paper carryout bags, and a summary of any efforts a store has undertaken to promote the use of reusable bags by customers in the prior year. Such reporting must be done on a form prescribed by the City Finance Director, and must be signed by a responsible agent or officer of the store in order to confirm that the information provided on the form is accurate and complete. Such reports shall be filed no later than ninety (90) days after the end of each year following the year in which this chapter becomes effective. (Ord. 5636, 2013.)

9.150.050 Use of Reusable Bags.

A. All stores must provide reusable bags to customers, either for sale or at no charge.

B. Stores are strongly encouraged to educate their staff to promote the use of reusable bags and to post signs and other informational materials encouraging customers to use reusable bags. (Ord. 5636, 2013.)

9.150.060 Exempt Customers.

All stores must provide at the point of sale, free of charge, either reusable bags or recyclable paper carryout bags or both, at the store's option, to any customer participating either in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, or in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the state Welfare and Institutions Code. (Ord. 5636, 2013.)

9.150.070 Enforcement and Violations – Penalties.

A. Administrative Enforcement. The City Finance Director (or his designee) shall have the primary responsibility for enforcement of this Chapter. The Director is authorized to promulgate Departmental regulations to assist stores in understanding and in complying with this Chapter and to take any and all other actions reasonable and necessary to enforce and interpret this Chapter.

B. Regulations on Free Reusable Bags. If determined to be appropriate and necessary, the City Finance Director may adopt regulations restricting or limiting the ability of those stores defined in subparagraphs J.1 and J.2 of Section 9.150.010 to offer customers free reusable bags as a promotional item. (Ord. 5636, 2013.)

9.150.080 Operative Date.

For those stores defined in subparagraph J.1 of Section 9.150.010, this Chapter shall become operative One Hundred Eighty (180) days after the effective date of the City ordinance adopting this Chapter. For stores defined in subparagraph J.2 of Section 9.150.010, this Chapter shall become operative one year after the effective date of the City ordinance adopting this Chapter. (Ord. 5636, 2013.)

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