

TITLE 4
Revenue, Finance and Purchasing

This title was most recently updated by the following ordinance:

Ordinance No.	Subject	Effective Date	Code Site
5676	Payment of Prevailing Wages on Public Works Projects	January 8, 2015	Section 4.52.160
5716	Purchase of Equipment, Supplies, and Services	October 8, 2015	Chapter 4.52
5724	Public Works Contracts	October 29, 2015	Section 4.52.165

TITLE 4

REVENUE, FINANCE AND PURCHASING

Sections:

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Chapter: 4.08	Transient Occupancy Tax	Chapter: 4.39	Downtown Parking and Business Improvement Area Charges
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Chapter 4.04

ANNEXATION FEES AND CHARGES

Sections:

4.04.010	Establishment of Annexation "Buy-In" Fee Requirement.	4.04.030	Exemptions - Public Ownership - Initiation by City Council -Tax Exemption - Existing Development - Affordable Housing Units.
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4.04.010 Establishment of Annexation "Buy-In" Fee Requirement.

Prior to the annexation of real property to the City of Santa Barbara, the owner or owners of such property shall pay an annexation "buy-in" fee based exclusively on the number of potential dwelling units which may be constructed upon the annexed real property, as such number of units may be determined by the Community Development Director. (Ord. 5133, 1999.)

4.04.020 Calculation of Annexation "Buy-In" Fee - Value of Existing Municipal Improvements.

For the purposes of calculating, imposing, and collecting the annexation "buy-in" fee established pursuant to Section 4.04.010 above, the City Finance Director and the City Community Development Director shall reasonably and fairly estimate the value of all municipal improvements existing at the time of the adoption of the ordinance approving the amendments to this Chapter. The value of such municipal improvements so estimated shall be divided by the number of dwelling units then existing within the City and the resulting amount shall be utilized by the Community Development Department as the per dwelling unit annexation "buy-in" fee imposed pursuant to Section 4.04.010. In determining the number of dwelling units existing within the City at the time of the calculation, the Community Development Director shall utilize the estimates provided by the Department of Finance of the State of California.

Upon its calculation as provided for herein, the amount of the annexation "buy-in" fee shall be approved by resolution of the City Council. (Ord. 5133, 1999.)

4.04.030 Exemptions - Public Ownership - Initiation by City Council - Tax Exemption - Existing Development - Affordable Housing Units.

No Section 4.04.010 annexation fee shall be imposed under this chapter in the following cases:

- (1) On all publicly owned property in the annexed territory.
- (2) On all tax-exempt property in the annexed territory.
- (3) On all property in the annexed territory when the annexation is initiated by the City Council rather than by petition of the property owners.
- (4) On all property in the annexed territory when the number of registered voters in said territory is equal to or greater than fifty percent (50%) of the number of registered voters in the City and the City Council determines that the public interest would be served by waiving the annexation fees.
- (5) On real properties within the annexed territory with existing development that have no additional development potential, as determined by the Community Development Director.
- (6) On all housing units dedicated and occupied as low, moderate or middle income housing units as a result of a public subsidy or the City granting a land use incentive consistent with the City's Affordable Housing Policies and Procedures Manual. (Ord. 5133, 1999; Ord. 4075, 1980; Ord. 4060, 1980; Ord. 3699, 1974.)

Chapter 4.08

TRANSIENT OCCUPANCY TAX

Sections:

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4.08.010 Title.

This Chapter shall be known as the Uniform Transient Occupancy Tax Ordinance of the City of Santa Barbara. (Ord. 4458, 1987; Ord. 2987 §1, 1964.)

4.08.020 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. **DIRECTOR OF FINANCE.** The person who is the supervisor of the Finance Department or other person designated by the Director of Finance or the City Administrator.

B. **HOTEL.** Any structure, any portion of any structure, or any property or portion thereof which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or recreational vehicle park (as defined in Title 28 of this Code), or other similar structure or portion thereof.

C. **OCCUPANCY.** The use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

D. **OPERATOR.** The person who is proprietor of the hotel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

E. **PERSON.** Any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

F. **RENT.** The consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

G. TRANSIENT. Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy; provided that an occupant of an apartment unit, constructed under a building permit as such, or in buildings which have been legally converted into apartments, shall not be deemed to be a transient if his occupancy is for a period of more than thirty (30) days and with or without such written agreement. (Ord. 4458, 1987; Ord. 4269, 1984; Ord. 3395 §1, 1969; Ord. 2987 §2, 1964.)

4.08.030 Tax Imposed - Payment - Debt.

For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Director of Finance may require that such tax shall be paid directly to the Director of Finance. (Ord. 4458, 1987; Ord. 4209, 1983; Ord. 3477 §1, 1971; Ord. 3262 §1, 1967.)

4.08.050 Operator's Duties - Collection.

Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded in the manner provided. (Ord. 4458, 1987; Ord. 2987 §5, 1964.)

4.08.060 Registration - Certificate - Display.

Within thirty (30) days after commencing business, each operator of any hotel renting occupancy to transients shall register the hotel with the Director of Finance and obtain from the Director of Finance a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel;
- (3) The date upon which the certificate was issued;
- (4) This transient occupancy certificate signifies that the person named on the face hereof fulfilled the requirements of this Chapter by registering with the Director of Finance for the purpose of collecting from transients the transient occupancy tax and remitting the tax to the Director of Finance. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit. (Ord. 4458, 1987; Ord. 2987 §6, 1964.)

4.08.070 Reporting and Remitting - Director of Finance.

Each operator shall, on or before the tenth (10th) day after the close of each calendar month, or at the close of any shorter reporting period which may be established by the Director of Finance, make a return to the Director of Finance, on forms provided by the Director of Finance, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director of Finance. The Director of Finance may establish shorter reporting periods for any certificate holder if the Director of Finance deems it necessary in order to insure collection of the tax and the Director of Finance may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment thereof is made to the Director of Finance. (Ord. 4458, 1987; Ord. 2987 §7, 1964.)

4.08.080 Penalties and Interest - Original Delinquency.

Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax. (Ord. 4458, 1987; Ord. 2987 §8(a), 1964.)

4.08.090 Penalties and Interest - Continued Delinquency.

Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the ten percent (10%) penalty first imposed. (Ord. 4458, 1987; Ord. 2987 §8(b), 1964.)

4.08.100 Penalties and Interest - Fraud.

If the Director of Finance determines that the non-payment of any remittance due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in Sections 4.08.080 and 4.08.090. (Ord. 4458, 1987; Ord. 2987 §8(c), 1964.)

4.08.110 Penalties and Interest - Interest.

In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent (1/2 of 1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first become delinquent until paid. (Ord. 4458, 1987; Ord. 2987 §8(d), 1964.)

4.08.120 Penalties Merged with Tax.

Every penalty imposed and such interest as accrues under the provisions of this Chapter shall become a part of the tax herein required to be paid. (Ord. 4458, 1987; Ord. 2987 §8(e), 1964.)

4.08.130 Failure to Collect and Report Tax - Determination of Tax by Director of Finance.

If any operator shall fail or refuse to collect the tax and to make within the time provided in this Chapter, any report and remittance of the tax or any portion thereof required by this Chapter, the Director of Finance shall proceed in such a manner as the Director of Finance may deem best to obtain facts and information on which to base the Director of Finance's estimate of the tax due. As soon as the Director of Finance shall procure such facts and information as the Director of Finance is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Director of Finance shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Director of Finance shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at its last known place of address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Director of Finance for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Director of Finance shall become final and conclusive and immediately due and payable. If such application is made, the Director of Finance shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 4.08.140. (Ord. 4458, 1987; Ord. 2987 §9, 1964.)

4.08.140 Appeal.

Any operator aggrieved by any decision of the Director of Finance with respect to the amount of such tax, interest and penalties, if any, may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4458, 1987; Ord. 2987 §10, 1964.)

4.08.150 Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the Director of Finance shall have the right to inspect at all reasonable times. (Ord. 4458, 1987; Ord. 2987 §11, 1964.)

4.08.160 Refund - Filing Claim.

Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Chapter it may be refunded as provided in Sections 4.08.170 and 4.08.180 provided a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director of Finance within three (3) years of the date of payment. The claim shall be on forms furnished by the Director of Finance. (Ord. 4458, 1987; Ord. 2987 §12(a), 1964.)

4.08.170 Refund - Overpayment.

An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Director of Finance that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator. (Ord. 4458, 1987; Ord. 2987 §12(b), 1964.)

4.08.180 Refund - Transient.

A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in Section 4.08.160, but only when the tax was paid by the transient directly to the Director of Finance, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Director of Finance that the transient has been unable to obtain a refund from the operator who collected the tax. (Ord. 4458, 1987; Ord. 2987 §12(c), 1964.)

4.08.185 Refund - Restrictions on Transient Occupancy Tax.

The Director of Finance may approve a refund of a payment collected by an operator for transient occupancy tax, upon a finding that:

1. The claim for refund is supported by adequate documentary evidence, evidence of suitable identification, and a declaration, under penalty of perjury, of the basis for such refund;
2. The claim was made within 90 days after such tax had been paid; and,
3. It appears that such refund is required by applicable state or federal law, treaty, rule, regulation, exemption or other legislation. (Ord. 4764, 1992; Ord. 4458, 1987.)

4.08.190 Refund - Proof of Entitlement.

No refund shall be paid under the provisions of Sections 4.08.160 - 4.08.180 unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 4458, 1987; Ord. 2987 §12(d), 1964.)

4.08.200 Actions to Collect - Debt to City.

Any tax required to be paid by any transient under the provisions of this Chapter shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City of Santa Barbara for the recovery of such amount. (Ord. 4458, 1987; Ord. 2987 §13, 1964.)

4.08.210 Misdemeanor - Failure or Refusal to Return - False or Fraudulent Report.

Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Director of Finance, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter to be made, is guilty of a misdemeanor. (Ord. 4458, 1987; Ord. 2987 §14, 1964.)

Chapter 4.09

ADDITIONAL TRANSIENT OCCUPANCY TAX FOR IMPROVEMENT OF WATERS AND CREEKS

Sections:

4.09.010	Tax Imposed, Payment, Debt.	4.09.030	Applicable Definitions and Procedures.
4.09.020	Use of Tax Proceeds.		

4.09.010 Tax Imposed, Payment, Debt.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax, in addition to the tax imposed by Chapter 4.08 of the Santa Barbara Municipal Code, in the amount of two percent (2%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Director of Finance may require that such tax shall be paid directly to the Director of Finance. (Ord. 5173, 2000.)

4.09.020 Use of Tax Proceeds.

From and after the effective date of the ordinance adding this chapter to the Municipal Code, the revenues collected under this chapter shall be deposited in a special fund and shall be appropriated therefrom and used to fund programs to improve the quality of storm waters and other surface waters discharged into the Pacific Ocean, to carry out creek restoration improvements, and for projects or programs to improve the quality of onshore or offshore waters. (Ord. 5173, 2000.)

4.09.030 Applicable Definitions and Procedures.

All terms used herein shall be as defined in Chapter 4.08 of the Santa Barbara Municipal Code and all procedures for the imposition, registration, reporting, calculation of interest and penalties, collection, refund and appeals shall be as provided in Chapter 4.08. The definitions of such terms and the procedures for imposition, registration, reporting, calculation of interest and penalties, collection, refund and appeals may be modified, expanded or otherwise amended from time to time by the City Council of the City of Santa Barbara taking action by ordinance as provided by the City Charter or otherwise provided by law. (Ord. 5173, 2000.)

Chapter 4.12

SALES AND USE TAX

Sections:

4.12.010	Short Title.	4.12.100	Limitations on Adoption of State Law.
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4.12.030	Operative Date.	4.12.130	Exclusions and Exemptions.
4.12.040	Purpose.	4.12.135	Exclusions and Exemptions.
4.12.050	Contract with State.	4.12.150	Amendments.
4.12.060	Sales Tax.	4.12.160	Enjoining Collection Forbidden.
4.12.070	Place of Sale.	4.12.170	Penalties.
4.12.080	Use Tax.	4.12.180	Severability.
4.12.090	Adoption of Provisions of State Law.	4.12.190	Repeals.

4.12.010 Short Title.

This ordinance shall be known as the Uniform Local Sales and Use Tax Ordinance. (Ord. 3604 §2, 1973.)

4.12.020 Rate.

The rate of sales tax and use tax imposed by this ordinance shall be one percent (1%). (Ord. 3733, 1975; Ord. 3604 §2, 1973.)

4.12.030 Operative Date.

This ordinance shall be operative on January 1, 1974. (Ord. 3604 §2, 1973.)

4.12.040 Purpose.

The City Council hereby declares that this ordinance is adopted to achieve the following, among other purposes, directs that the provisions hereof be interpreted in order to accomplish these purposes:

(1) To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

(2) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

(3) To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

(4) To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance. (Ord. 3604 §2, 1973.)

4.12.050 Contract with State.

Prior to the operative date this City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax ordinance; provided, that if this City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of this ordinance. (Ord. 3604 §2, 1973.)

4.12.060 Sales Tax.

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the City at the rate stated in §4.12.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this City on and after the operative date. (Ord. 3604 §2, 1973.)

4.12.070 Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of--state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one (1) place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 3604 §2, 1973.)

4.12.080 Use Tax.

An excise tax is hereby imposed on the storage, use or other consumption in this City of tangible personal property, purchased from any retailer on and after the operative date for storage, use or other consumption in this City at the rate stated in §4.12.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made. (Ord. 3604 §2, 1973.)

4.12.090 Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part I of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein. (Ord. 3604 §2, 1973.)

4.12.100 Limitations on Adoption of State Law.

In adopting the provisions of Part I of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. The substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; the substitution shall not be made in Section 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203. (Ord. 3604 §2, 1973.)

4.12.110 Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this ordinance. (Ord. 3604 §2, 1973.)

4.12.130 Exclusions and Exemptions.

1. The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.
2. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county or city in this state shall be exempt from the tax due under this Chapter.
3. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

4. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax. (Ord. 4243, 1983; Ord. 3604 §2, 1973.)

4.12.135 Exclusions and Exemptions.

1. The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.

2. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state shall be exempt from the tax due under this Chapter.

3. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

4. The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes is exempted from the use tax.

5. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

6. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax.

7. This section shall become operative and shall entirely supercede section 4.12.130 on the operative date of any act of the Legislature of the State of California which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i) (7) and (i) (8) of Section 7202 as those subdivisions read on October 1, 1983. (Ord. 4243, 1983.)

4.12.150 Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this ordinance. (Ord. 3604 §2, 1973.)

4.12.160 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this City, or against any officer of the State or this City, to prevent or enjoin the collection under this ordinance, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 3604 §2, 1973.)

4.12.170 Penalties.

Any persons violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$500.00 or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. (Ord. 3604 §2, 1973.)

4.12.180 Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 3604 §2, 1973.)

4.12.190 Repeals.

Ordinance No. 2741, as amended by Ordinance No. 2847, is hereby repealed; provided, however, that said ordinance, as amended, shall remain applicable for the purposes of the administration of said ordinance and the imposition of and the collection of tax with respect to the sales of, and the storage, use, or other consumption of tangible personal property prior to January 1, 1974, the making of refunds, effecting credits, and the disposition of monies collected, and for the commencement or continuance of any action or proceeding under said ordinance. (Ord. 3604 §2, 1973.)

Chapter 4.16

**SPECIAL GAS TAX
STREET IMPROVEMENT FUND**

Sections:

4.16.010 Created.

4.16.020 Moneys to be Paid into Fund.

4.16.030 Expenditure of Moneys in Fund.

4.16.010 Created.

To comply with the provisions of Sections 180 to 207 of the State Streets and Highway Code, with particular reference to Section 196, there is hereby created in the City Treasury a special fund known as the "Special Gas Tax Street Improvement Fund". (Prior Code §39.1.)

4.16.020 Moneys to be Paid into Fund.

All moneys received by the City from the State under the provisions of the Streets and Highway Code for the acquisition of real property or interests therein for, or the construction, maintenance or improvements of, streets or highways, other than State highways, shall be paid into the fund created by Section 4.16.010. (Prior Code §39.2.)

4.16.030 Expenditure of Moneys in Fund.

All moneys in the Special Gas Tax Street Improvement Fund shall be expended exclusively for the purposes authorized by and subject to all of the provisions of Sections 180 to 207 of the State Streets and Highway Code, and any amendments thereto. (Prior Code §39.3.).

Chapter 4.20

REAL PROPERTY TRANSFER TAX

Sections:

4.20.010	Title.	Exempt.	
4.20.020	Tax Imposed.	4.20.070	SEC Conveyances Exempt.
4.20.030	Paid by Whom.	4.20.080	Realty Partnerships Exempt.
4.20.040	Securing Debt Exempt.	4.20.090	Administration.
4.20.050	Governmental Agencies Exempt.	4.20.100	Refunds.
4.20.060	Reorganization or Adjustments		

4.20.010 Title.

This chapter shall be known as the "Real Property Transfer Tax Ordinance of the City of Santa Barbara". It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code. (Ord. 3260 §1(part), 1967.)

4.20.020 Tax Imposed.

There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City of Santa Barbara shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00), a tax at the rate of twenty-seven and one-half cents (\$.275) for each five hundred dollars (\$500.00) or fractional part thereof. (Ord. 3260 §1(part), 1967.)

4.20.030 Paid by Whom.

The tax imposed by Section 4.20.020 shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed, or issued. (Ord. 3260 §1(part), 1967.)

4.20.040 Securing Debt Exempt.

The tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 3260 §1(part), 1967.)

4.20.050 Governmental Agencies Exempt.

The United States or any agency or instrumentality thereof, any state or territory or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor. (Ord. 3260 §1(part), 1967.)

4.20.060 Reorganization or Adjustments Exempt.

The tax imposed pursuant to this chapter shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

- (a) Confirmed under the Federal Bankruptcy Act, as amended;
- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
- (c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or
- (d) Whereby a mere change in identity, form, or place of organization is effected.

Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery, or filing of instruments of transfer or conveyance occurs within five (5) years from the date of such confirmation, approval, or change. (Ord. 3260 §1(part), 1967.)

4.20.070 SEC Conveyances Exempt.

The tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

- (a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utilities Holding Act of 1935;
- (b) Such order specifies the property which is ordered to be conveyed;
- (c) Such conveyance is made in obedience to such order. (Ord. 3260 §1(part), 1967.)

4.20.080 Realty Partnerships Exempt.

(a) In the case of any realty held by a partnership, no tax shall be imposed pursuant to this chapter by reason of any transfer of an interest in the partnership or otherwise, if:

- (1) Such partnership (or other partnership) is considered a continuing partnership within the meaning of Section 709 of the Internal Revenue Code of 1954; and
- (2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one (1) tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 3260 §1(part), 1967.)

4.20.090 Administration.

The provisions of this chapter shall be administered by the County of Santa Barbara in accordance with the provisions of Ordinance No. 1847 of the County of Santa Barbara (as codified in Sections 32.31 to 32.48, inclusive, of the Code of the County of Santa Barbara), and Part 6.7 (commencing with Section 11901) of Division 2 of the California Revenue and Taxation Code. (Ord. 3260 §1(part), 1967.)

4.20.100 Refunds.

Claims for refunds of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 1 of Division 1 of the California Revenue and Taxation Code. (Ord. 3260 §1(part), 1967.)

Chapter 4.24

UTILITY SERVICES TAX

Sections:

4.24.010	Definitions.	4.24.110	Penalty.
4.24.020	Telephone Tax.	4.24.120	Actions to Collect.
4.24.030	Electricity Tax.	4.24.130	Failure to Pay Tax - Administrative Remedy.
4.24.040	Gas Tax.	4.24.140	Assessment - Administrative Remedy.
4.24.050	Water Tax.	4.24.150	Records.
4.24.060	Garbage Collection Tax.	4.24.160	Refunds.
4.24.070	Cable Television Tax.	4.24.170	Severability.
4.24.080	Exemptions.	4.24.190	Appropriation and Use of Funds.
4.24.090	Collection of Tax.		
4.24.100	Reporting and Remitting.		

4.24.010 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

A. "Person." A domestic or foreign corporation, firm, association, syndicates, joint stock company, partnership, joint venture, club, Massachusetts business or common-law trust, society or individual, and includes a municipal corporation.

B. "City." The City of Santa Barbara.

C. "Telephone corporation", "electrical corporation", "gas corporation", "water corporation" and "cable television corporation." As defined in Sections 234, 218, 222, 241 and 215.5, respectively, of the Public Utilities Code of the State of California. "Electrical corporation" and "water corporation" include any municipality or franchised agency engaged in the selling or supplying of electrical power or water to a service user.

D. "Tax Collector." The City Treasurer.

E. "Service supplier." A person required to collect and remit a tax imposed by this Chapter.

F. "Service user." A person required to pay a tax imposed by this Chapter.

G. "Month." A calendar month. (Ord. 4289, 1984, Ord. 3436 Section 1(part), 1970.)

4.24.020 Telephone Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City, other than a telephone corporation, using intrastate telephone communication services in the City. The tax imposed by this Section shall be at the rate of six percent (6%) of all charges made for such services and shall be paid by the person paying for such services.

B. EXCEPTIONS - COIN AND MOBILE TELEPHONES. As used in this Section, the term "charges" shall not include charges for services paid for by inserting coins in coin-operated telephones except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due; nor shall the term "telephone communication services" include land mobile services or maritime mobile services as defined in Section 2.1 of Title 47 of the Code of Federal Regulations, as such Section existed on January 1, 1969.

C. EXCEPTION - INTRASTATE TELEPHONES. Notwithstanding the provisions of Subsection A of this Section, the tax imposed under this Section shall not be imposed upon any person for using intrastate telephone communication services to the extent that the amounts paid for such services are exempt from or not subject to the tax imposed by Section 4251 of Title 26 of the United States Code, as such Section existed on January 1, 1969, without regard to Subsection (b) thereof. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.030 Electricity Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City using electrical energy in the City. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such energy and shall be paid by the person paying for such energy. "Charges" as used in this Section, include charges for:

1. Metered energy; and
2. Minimum charges for service, including customer charges, service charges, demand charges and annual and monthly charges.

B. EXCEPTION. As used in this Section, the term "using electrical energy", shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received; provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries. The term does not include electricity used in water pumping by water corporations; nor shall the term include the mere receiving of such energy by an electrical corporation at a point within the City for resale. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.040 Gas Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City using the City gas which is delivered through mains or pipes. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such gas, including minimum charges for service, and shall be paid for by the person paying for such gas.

B. EXCEPTIONS. The term "charges" shall not include charges made for gas which is to be resold and delivered through mains or pipes, charges made for gas sold or used in the generation of electrical energy by a public utility or a governmental agency, and charges made by a gas public utility for gas used or consumed in the conduct of the business of gas public utilities. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.050 Water Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City using water which is delivered through mains or pipes. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such water and shall be paid by the person paying for such water.

B. EXCLUSION. There shall be excluded from the base on which the tax imposed in this Section is computed, charges made for water which is to be resold and delivered through mains or pipes; and charges made by a municipal water department, public utility or a county or municipal water district for water used and consumed by such department, utility or district in the conduct of business of such department, utility or district.

C. EXCLUSION. There shall also be excluded from the tax imposed by this Section 4.24.050 all water service in the City furnished by any water utility district other than the Public Works Department of the City.

D. DEPOSIT OF FUNDS. Effective July 1, 2002, the proceeds of the tax imposed under this Section shall be deposited in the General Fund. (Ord. 5245, 2002; Ord. 4857, 1994; Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.060 Garbage Collection Tax.

There is imposed a tax upon every person in the City using the service of a garbage, refuse and rubbish collection and disposal contractor or permittee authorized as such by the City, and whether such contractor or permittee be a person, firm, partnership or corporation. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges authorized by Section 7.16.620 of the Santa Barbara Municipal Code, 1967, or, in the event such charges be not so regulated, then upon the charges actually charged at the effective date of the ordinance codified in this Chapter. Trash collectors are exempt from the tax imposed by this Section. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.070 Cable Television Tax.

There is imposed a tax upon every person in the City using cable television service. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such service and shall be paid by the person paying for such service. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.080 Exemptions.

A. CONSUMER. The tax imposed by this Chapter shall not apply to any individual who used telephone, electric, gas, cable television, water services or garbage collection in or upon any premises occupied by such individual; provided the total Adjusted Gross Income of that individual, as used for purposes of the California Personal Income Tax Law, was no more than \$5,330.00 for the most recent completed calendar year, and provided the combined Adjusted Gross Income of all members of the household in which such individual resided was no more than \$7,990.00. The exemption amounts set forth herein shall be adjusted upwards or downwards each January 1 to reflect the percentage change in the annual average of the Consumer Price Index (All Urban Consumers, All Items-Los Angeles-Long Beach-Anaheim) for the twelve months prior to the preceding September 30. The City Administrator shall compute the dollar increase or decrease annually, the result shall be rounded off to the nearest ten dollar (\$10) increment, and this adjustment shall be effective as of January 1 of each year hereafter.

B. PREREQUISITE: APPLICATION AND APPROVAL. The exemption granted by this Section shall not eliminate the duty of the service supplier from collecting taxes from such exempt individuals, or the duty of such exempt individuals from paying such taxes to the service supplier; unless an exemption is applied for by the service user and granted in accordance with the provisions of this Section.

C. APPLICATION. Any service user exempt from the taxes imposed by this Chapter because of the provisions of Subsection A may file an application with the Tax Collector for an exemption. Such application shall be made upon a form supplied by the Tax Collector; and shall state those facts, declared under oath, which qualify the applicant for an exemption.

D. GRANTING; NOTICE TO SERVICE SUPPLIERS. The Tax Collector shall review all such applications, and shall certify as exempt those applicants determined to qualify therefor; and shall notify all service suppliers affected that such exemptions have been approved. For each exemption, the following information shall be transmitted to the service supplier:

1. Name of exempt applicant.
2. Account number shown on utility bill.
3. Address to which exempt service is being supplied.
4. Any other information as may be necessary for the service supplier to remove the exempt service user

from its tax billing procedure.

E. OBLIGATIONS OF SERVICE SUPPLIER. Upon receipt of such notice, the service supplier shall not be required to continue to bill any further tax imposed by this Chapter from such exempt service user, until further notice by the Tax Collector is given. The service supplier shall eliminate such exempt service user from its tax billing procedure no later than sixty (60) days after receipt of such notice from the Tax Collector.

F. ANNUAL REVIEW. All exemptions shall be renewed annually and shall exist, so long as the prerequisite facts supporting the initial qualification for exemption shall continue; provided, however, that the exemption shall automatically terminate with any change in the service address or residence of the exempt individual; further provided such individual may nevertheless apply for a new exemption with each change of address or residence. If an applicant who has been granted an exemption does not file a new application prior to April 15 evidencing continued eligibility under the cost-of-living adjustment for that year as previously computed by the City Administrator, the exemption shall automatically terminate.

G. EVIDENCE OF CONTINUED ELIGIBILITY. The Tax Collector shall have the power and right to demand evidence of continued eligibility of a service user for exemption under the provisions of this Section. Such evidence may include, but need not be limited to, copies of business records, letters or statements from the Social Security Administration, copies of income tax returns, and such other evidence concerning the service user or other members of his household as may tend to prove or disprove such eligibility. Failure to provide such evidence as is within the control of a service user to so provide, whether directly by him or by his consent or the consent of a member of his household when such evidence is requested of the service user in writing by the Tax Collector, shall be grounds for the immediate discontinuance of the service user's eligibility for exemption under the provisions of this Section. Evidence provided to the Tax Collector upon request, or voluntarily provided by the service user without request, may not be used against such service user as evidence of violation of the provisions of this Section; such evidence may only be used as grounds for termination of the exemption herein provided.

H. LOSS OF EXEMPTION; MISDEMEANOR. Any individual exempt from the tax shall notify the Tax Collector within ten (10) days of any change in fact or circumstance which might disqualify said individual from receiving such exemption. It shall be a misdemeanor for any person to knowingly receive the benefits of the exemptions provided by this Section, when the basis for such exemption either does not exist or ceases to exist.

I. DUTY OF SERVICE SUPPLIER. Notwithstanding any of the provisions hereof, any service supplier who determines by any means that a new or non-exempt service user is receiving service through a meter or connection exempt by virtue of an exemption issued to a previous user or exempt user of the same meter or connection, such service supplier shall immediately notify the Tax Collector of such facts; and the Tax Collector shall conduct an investigation to ascertain whether or not the provisions of this Section have been complied with, and where appropriate, order the service supplier to commence collecting the tax from the non-exempt service user.

J. DENIAL OF APPLICATION; APPEAL. If the Tax Collector determines that an application for exemption is faulty, or that the applicant has failed to truthfully set forth such facts, application for the exemption shall be denied in writing to the applicant. The applicant shall thereafter have a right to file an amended application for exemption; or to appeal the Tax Collector's decision within a 10-day period after the mailing date of the Tax Collector's rejection. In the case of an appeal, the City Administrator shall review the facts in consultation with the City Attorney, and shall render a final determination on such appeal.

K. CONSTRUCTION WITH OTHER LAWS. Nothing in this Chapter shall be construed as imposing a tax upon any person if imposition of such tax upon that person would be in violation of the Constitution of the United States or the Constitution of the State of California. (Ord. 4289, 1984; Ord. 4021, 1979; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.090 Collection of Tax.

A. DUTY TO COLLECT. Every person receiving payment of charges from a service user shall collect the amount of tax imposed by this Chapter from the service user.

B. TIME FOR COLLECTION. The tax shall be collected insofar as practicable at the same time as and along with the collection of charges made in accordance with the regular billing practice of the service supplier.

C. COMMENCEMENT OF DUTY. The duty to collect tax from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the effective date of this Chapter. Where a person receives more than one (1) billing, one (1) or more being for different periods than another, the duty to collect shall arise separately for each billing period. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.100 Reporting and Remitting.

Each service supplier shall on or before the twentieth of each month make a return to the Tax Collector on forms provided by him, stating the amount of taxes billed by the service supplier during the preceding month. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Collector. The Tax Collector is authorized to require such further information as he deems necessary to properly determine if the tax here imposed is being levied and collected in accordance with this Chapter. Returns and remittances are due immediately upon cessation of business for any reason. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.110 Penalty.

A. DELINQUENT TAXES. Taxes collected from a service user which are not remitted to the Tax Collector on or before the due date provided in this Chapter are delinquent.

B. AUTOMATIC PENALTY. Penalties for delinquency in remittance of any tax collected or any deficiency determination, shall attach and be paid by the person required to collect and remit at the rate of fifteen percent (15%) of the total tax collected or imposed herein.

C. ADDITIONAL PENALTY. The Tax Collector shall have power to impose additional penalties upon persons required to collect and remit taxes under the provisions of this Chapter for fraud or negligence in reporting or remitting at the rate of fifteen percent (15%) of the amount of the tax collected or as recomputed by the Tax Collector.

D. PENALTY PART OF TAX DUE. Every penalty imposed under the provisions of this Section shall become a part of the tax required to be remitted. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.120 Actions to Collect.

Any tax required to be paid by a service user under the provisions of this Chapter shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Collector shall be deemed a debt owed to the City by the person required to collect and remit. Any tax billed to a service user but not paid to the service supplier shall not be deemed an obligation of the service supplier unless such tax is thereafter paid to the service supplier. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount. (Ord. 4289, 1984; Ord. 3436 Section 1(part), 1970.)

4.24.130 Failure to Pay Tax - Administrative Remedy.

Whenever the Tax Collector determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a service supplier, or that a service user has failed to pay the amount of the tax for a period of two (2) or more billing periods, or whenever the Tax Collector deems it in the best interest of the City, he may relieve the service supplier of the obligation to collect taxes due under this Chapter from certain named service users for specified billing periods. The Tax Collector shall notify the service user that he has assumed responsibility to collect the taxes for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the service supplier; or should the service user have changed his address, to his last known address. If a service user fails to remit the tax to the Tax Collector within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five percent (25%) of the amount of the tax set forth in the notice shall be imposed, but not less than five dollars (\$5.00). The penalty shall become part of the tax herein required to be paid. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.140 Assessment - Administrative Remedy.

The Tax Collector may make an assessment for taxes not paid or remitted by a person required to pay or remit. A notice of the assessment, which shall refer briefly to the amount of the taxes and penalties imposed and the time and place when such assessment shall be submitted to the City Council for confirmation or modification, shall be prepared by the Tax Collector. The Tax Collector shall mail a copy of such notice to the person selling the service and to the service user at least ten (10) days prior to the date of hearing and shall post such notices at the City Hall for at least five (5) continuous days prior to the date of the hearing. Any interested party having any objections may appear and be heard at the hearing provided his objection is filed in writing with the Tax Collector prior to the time set for the hearing. At the time fixed for considering the assessment, the City Council shall conduct a hearing and after the hearing may confirm or modify the assessment by motion. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.150 Records.

It shall be the duty of every person required to collect and remit to the City any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and remittance to the Tax Collector, which records the Tax Collector shall have the right to inspect at all reasonable times. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.160 Refunds.

A. AUTHORIZED. Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Collector under this Chapter, it may be refunded as provided in this Section.

B. CLAIM BY PERSON COLLECTING TAXES. A person required to collect and remit taxes imposed under this Chapter may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established, in a manner prescribed by the Tax Collector, that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither the refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit.

C. EVIDENCE. No refund shall be paid under the provisions of this Section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 4289, 1984.)

4.24.170 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part hereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter of any part hereof. The City Council declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional. (Ord. 4289, 1984; Ord. 3436 Section 1(part), 1970.)

4.24.190 Appropriation and Use of Funds.

Fifty percent (50%) of the revenues imposed and collected under this Chapter shall be appropriated and used for street reconstruction, maintenance and/or repair. (Ord. 4289, 1984; Ord. 3927 Section 2, 1977.)

Chapter 4.26

TELECOMMUNICATIONS AND VIDEO USERS' TAX REDUCTION AND MODERNIZATION ORDINANCE

Sections:

4.26.010	Ordinance Title.	4.26.130	Additional Powers and Duties of the Tax Administrator.
4.26.020	Definitions.	4.26.140	Records.
4.26.030	Constitutional, Statutory, and Other Exemptions.	4.26.150	Refunds.
4.26.040	Telecommunications Users' Tax.	4.26.160	Low Income, Senior, Disabled, or Other Consumer Exemption – Refunds.
4.26.050	Video Users' Tax.	4.26.170	Appeals.
4.26.060	Bundling Taxable Items with Non-Taxable Items.	4.26.180	No Injunction/Writ of Mandate.
4.26.070	Substantial Nexus/Minimum Contacts.	4.26.190	Notice of Changes to Ordinance.
4.26.080	Duty to Collect – Procedures.	4.26.200	Effect of State and Federal Reference/Authorization.
4.26.090	Collection Penalties – Service Suppliers.	4.26.210	Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure.
4.26.100	Actions to Collect.	4.26.220	Interaction with Prior Tax.
4.26.110	Deficiency Determination and Assessment – Tax Application Errors.	4.26.230	Remedies Cumulative.
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4.26.010 Ordinance Title.

This Chapter shall be known as the "Telecommunications and Video Users' Tax Reduction and Modernization Ordinance" of the city of Santa Barbara. (Ord. 5471, 2008.)

4.26.020 Definitions.

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

A. ANCILLARY TELECOMMUNICATION SERVICES. Services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to the following services:

1. "Conference bridging service" which means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

2. "Detailed telecommunications billing service" which means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

3. "Directory assistance" which means an ancillary service of providing telephone number information, and/or address information.

4. "Vertical service" which means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

5. "Voice mail service" which means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

B. ANCILLARY VIDEO SERVICES. Services that are associated with or incidental to the provision or delivery of video services, including but not limited to electronic program guide services, search functions, recording services, or other interactive services or communications that are associated with or incidental to the provision, use or enjoyment of video services.

C. BILLING ADDRESS. The mailing address of the service user where the service supplier submits invoices or bills for payment by the customer.

D. MOBILE TELECOMMUNICATIONS SERVICE. The meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124) and the regulations established therewith.

E. MONTH. A calendar month.

F. PAGING SERVICE. A "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

G. PERSON. Without limitation, any natural individual, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and non-profit), municipal district or municipal corporation (other than the City) cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

H. PLACE OF PRIMARY USE. The street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer.

I. POST-PAID TELECOMMUNICATION SERVICE. The telecommunication service obtained by making a payment on a telecommunication-by-telecommunication basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.

J. PREPAID TELECOMMUNICATION SERVICE. The right to access telecommunication services, which must be paid for in advance and which enables the origination of telecommunications using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

K. PRIVATE TELECOMMUNICATION SERVICE. A telecommunication service that entitles the customer to exclusive or priority use of a telecommunications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. A telecommunications channel is a physical or virtual path of telecommunications over which signals are transmitted between or among customer channel termination points (i.e., the location where the customer either inputs or receives the telecommunications).

L. SERVICE ADDRESS. Any of the following:

1. The location of the service user's telecommunication or video equipment from which the telecommunication or video communication originates or terminates, regardless of where the telecommunication or video communication is billed or paid; or,
2. If the location in subsection (1) of this definition is unknown (e.g., mobile telecommunications service or VoIP service), the service address means the location of the service user's place of primary use.
3. For prepaid telecommunication service, "service address" means the location associated with the service number.

M. SERVICE SUPPLIER. Any entity or person, including the City, that provides telecommunication or video service to a user of such service within the City.

N. SERVICE USER. A person required to pay a tax imposed under the provisions of this Chapter.

O. STATE. The state of California.

P. STREAMLINED SALES AND USE TAX AGREEMENT. The multi-state agreement commonly known and referred to as the Streamlined Sales and Use Tax Agreement, and as it is amended from time to time.

Q. TAX ADMINISTRATOR. The Finance Director of the City or his or her designee.

R. TELECOMMUNICATIONS SERVICES. The transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used. The term "telecommunications services" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that is functionally integrated with "telecommunication services". "Telecommunications services" include, but are not limited to the following services, regardless of the manner or basis on which such services are calculated or billed: ancillary telecommunication services; mobile telecommunications service; prepaid telecommunication service; post-paid telecommunication service; private telecommunication service; paging service; 800 service (or any other toll-free numbers designated by the Federal Communications Commission); 900 service (or any other similar numbers designated by the Federal Communications Commission for services whereby subscribers who call in to pre-recorded or live service).

S. VIDEO PROGRAMMING. Those programming services commonly provided to subscribers by a "video service supplier" including but not limited to basic services, premium services, audio services, video games, pay-per-view services, video on demand, origination programming, or any other similar services, regardless of the content of such video programming, or the technology used to deliver such services, and regardless of the manner or basis on which such services are calculated or billed.

T. VIDEO SERVICES. Video programming and any and all services related to the providing, recording, delivering, use or enjoyment of "video programming" (including origination programming and programming using Internet Protocol, e.g., IP-TV and IP-Video) using one or more channels by a "video service supplier", regardless of the technology used to deliver, store or provide such services, and regardless of the manner or basis on which such services are calculated or billed, and includes ancillary video services, data services, "telecommunication services", or interactive communication services that are functionally integrated with "video services".

U. VIDEO SERVICE SUPPLIER. Any person, company, or service which provides or sells one or more channels of video programming, or provides or sells the capability to receive one or more channels of video programming, including any telecommunications that are ancillary, necessary or common to the provision, use or enjoyment of the video programming, to or from a business or residential address in the City, where some fee is paid, whether directly or included in dues or rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or telecommunications. A “video service supplier” includes, but is not limited to, multi-channel video programming distributors [as defined in 47 U.S.C.A. Section 522(13)]; open video systems (OVS) suppliers; and suppliers of cable television; master antenna television; satellite master antenna television; multi-channel multipoint distribution services (MMDS); video services using internet protocol (e.g., IP-TV and IP-Video, which provide, among other things, broadcasting and video on demand), direct broadcast satellite to the extent federal law permits taxation of its video services, now or in the future; and other suppliers of video services or (including two-way communications), whatever their technology.

V. VOIP (VOICE OVER INTERNET PROTOCOL). The digital process of making and receiving real-time voice transmissions over any Internet Protocol network.

W. 800 SERVICE. A “telecommunications service” that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name “800”, “855”, “866”, “877”, and “888” toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

X. 900 SERVICE. An inbound toll “telecommunications service” purchased by a subscriber that allows the subscriber’s customers to call in to the subscriber’s prerecorded announcement or live service. “900 service” does not include the charge for: collection services provided by the seller of the “telecommunications services” to the subscriber, or service or product sold by the subscriber to the subscriber’s customer. The service is typically marketed under the name “900” service, and any subsequent numbers designated by the Federal Communications Commission. (Ord. 5471, 2008.)

4.26.030 Constitutional, Statutory, and Other Exemptions.

A. Consistency with State and Federal Law. Nothing in this Chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States or the Constitution of the State.

B. Exemption Application. Any service user that is exempt from the tax imposed by this Chapter pursuant to subsection (A) of this section shall file an application with the Tax Administrator for an exemption; provided, however, this requirement shall not apply to a service user that is a state or federal agency or subdivision with a commonly recognized name for such service. Said application shall be made upon a form approved by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall include the names of all telecommunication and video service suppliers serving that service user. If deemed exempt by the Tax Administrator, such service user shall give the Tax Administrator timely written notice of any change in telecommunication or video service suppliers so that the Tax Administrator can properly notify the new telecommunication or video service supplier of the service user’s tax exempt status. A service user that fails to comply with this section shall not be entitled to a refund of telecommunication or video users’ taxes collected and remitted to the Tax Administrator from such service user as a result of such noncompliance. The decision of the Tax Administrator regarding an application may be appealed pursuant to Section 4.26.170 of this Chapter. Filing an application with the Tax Administrator and appeal to the City Administrator pursuant to Section 4.26.170 of this Chapter is a prerequisite to a suit thereon.

C. Establishment of Exempt Classes. The City Council may, by resolution, establish one or more classes of persons or one or more classes of utility service otherwise subject to payment of a tax imposed by this Chapter and provide that such classes of persons or service shall be exempt, in whole or in part from such tax for a specified period of time. (Ord. 5471, 2008.)

4.26.040 Telecommunications Users' Tax.

A. Establishment of Telecommunications Users' Tax. There is hereby imposed a tax upon every person in the City using telecommunication services. The tax imposed by this section shall be at the rate of five and three-quarters percent (5.75 %) of the charges made for such services and shall be collected from the service user by the telecommunication services supplier or its billing agent. There is a rebuttable presumption that telecommunication services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this Chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. As used in this Section, the term “charges” shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telecommunication services.

B. Sourcing Rules. Mobile Telecommunications Service shall be sourced in accordance with the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124). The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this Chapter, sourcing rules for the taxation of other telecommunication services, including but not limited to post-paid telecommunication services, prepaid telecommunication services, and private telecommunication services, provided that such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation (e.g., Streamline Sales and Use Tax Agreement).

C. Authority for Administrative Rulings. The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this Chapter, an administrative ruling identifying those telecommunication services, or charges therefor, that are subject to or not subject to the tax of subsection (A) above.

D. Specific Inclusions in Telecommunication Services. As used in this section, the term “telecommunication services” shall include, but are not limited to, charges for the following: connection, reconnection, termination, movement, or change of telecommunication services; late payment fees; detailed billing; central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory, administrative and other cost recovery charges; local number portability charges; and text and instant messaging.

E. Certain Exclusions From Telecommunications Services. As used in this section, the term “telecommunication services” shall not include digital downloads that are not “ancillary telecommunication services,” such as music, ringtones, games, and similar digital products. Telecommunication services also does not include telecommunication services that are dedicated or used exclusively for internet access.

F. Multi-Jurisdictional Taxation. To prevent actual multi-jurisdictional taxation of telecommunication services subject to tax under this section, any service user, upon proof to the Tax Administrator that the service user has previously paid the same tax in another state or local jurisdiction on such telecommunication services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other state or local jurisdiction; provided, however, the amount of credit shall not exceed the tax owed to the City under this section.

G. Collection of Tax by Service Supplier. The tax on telecommunication services imposed by this section shall be collected from the service user by the service supplier. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month. (Ord. 5471, 2008.)

4.26.050 Video Users' Tax.

A. Establishment of Video Users' Tax. There is hereby imposed a tax upon every person in the City using video services. The tax imposed by this section shall be at the rate of five and three-quarters percent (5.75 %) of the charges made for such services and shall be collected from the service user by the video service supplier or its billing agent. There is a rebuttable presumption that video services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this Chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. .

B. Video Charges. As used in this section, the term “charges” shall include, but is not limited to, charges for the following:

1. regulatory fees and surcharges, franchise fees, and access fees (e.g., “PEG” fees);
2. initial installation of equipment necessary for provision and receipt of video services;
3. late fees, collection fees, bad debt recoveries, and return check fees;
4. activation fees, reactivation fees, and reconnection fees;
5. video programming and video services;
6. ancillary video services (e.g., electronic program guide services, recording functions, search functions, or other interactive services or communications that are ancillary, necessary or common to the use or enjoyment of video services;
7. equipment leases (e.g., remote, recording or search devices, converters, remote devices); and,
8. service calls, service protection plans, name changes, changes of services, and special services.

C. Charges Further Defined. As used in this section, the term “charges” shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the video services.

D. Administrative Rulings For Video Service Suppliers. The Tax Administrator may issue and disseminate to video service suppliers, which are subject to the tax collection requirements of this Chapter, an administrative ruling identifying those video services, or charges therefor, that are subject to or not subject to the tax of subsection (A) above.

E. Collection of Video Users' Tax. The tax imposed by this section shall be collected from the service user by the video service supplier, its billing agent, or a reseller of such services. In the case of video service, the service user shall be deemed to be the purchaser of the bulk video service (e.g., an apartment owner), unless such service is resold to individual users, in which case the service user shall be the ultimate purchaser of the video service. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month. (Ord. 5471, 2008.)

4.26.060 Bundling Taxable Items with Non-Taxable Items.

If any nontaxable charges are combined with and not separately stated from taxable service charges on the customer bill or invoice of a service supplier, the combined charge is subject to tax unless the service supplier identifies, by reasonable and verifiable standards, the portions of the combined charge that are nontaxable and taxable through the service supplier's books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the values assigned the taxable and non-taxable services shall be based on its books and records kept in the regular course of business and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper valuation of the taxable and non-taxable services. (Ord. 5471, 2008.)

4.26.070 Substantial Nexus/Minimum Contacts.

For purposes of imposing a tax or establishing a duty to collect and remit a tax under this Chapter, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the telecommunication and video users' tax to the fullest extent permitted by state and federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. Any telecommunication service (including VoIP) used by a person with a service address in the City, which service is capable of terminating a call to another person on the general telephone network, shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this Chapter. A service supplier shall be deemed to have sufficient activity in the City for tax collection and remittance purposes if its activities include, but are not limited to, any of the following: maintains or has within the City, directly or through an agent or subsidiary, a place of business of any nature; solicits business in the City by employees, independent contractors, resellers, agents or other representatives; solicits business in the City on a continuous, regular, seasonal or systematic basis by means of advertising that is broadcast or relayed from a transmitter with the City or distributed from a location with the City; or advertises in newspapers or other periodicals printed and published within the City or through materials distributed in the City by means other than the United States mail; or if there are activities performed in the City on behalf of the service supplier that are significantly associated with the service supplier's ability to establish and maintain a market in the City for the provision of services that are subject to a tax under this Chapter. (Ord. 5471, 2008.)

4.26.080 Duty to Collect – Procedures.

A. Manner of Collection by Service Suppliers. The duty of service suppliers to collect and remit the taxes imposed by the provisions of this Chapter shall be performed as follows:

1. The tax shall be collected by service suppliers insofar as practicable at the same time as, and along with, the collection of the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which was accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a service user has notified the service supplier of refusal to pay the tax imposed on said charges, Section 4.26.120 shall apply.

2. The duty of a service supplier to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this Chapter. Where a service user receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

B. Filing Return and Payment. Each person required by this Chapter to remit a tax shall file a return to the Tax Administrator, on forms approved by the Tax Administrator, on or before the due date. The full amount of the tax collected shall be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized to require such additional information as he or she deems necessary to determine if the tax is being levied, collected, and remitted in accordance with this Chapter. Returns are due immediately upon cessation of business for any reason. Pursuant to *Revenue and Tax Code Section 7284.6*, the Tax Administrator, and its agents, shall maintain such filing returns as confidential information that is exempt from the disclosure provisions of the *Public Records Act*. (Ord. 5471, 2008.)

4.26.090 Collection Penalties – Service Suppliers.

A. Due Date for Taxes; Delinquencies. Taxes collected from a service user are delinquent if not received by the Tax Administrator on or before the due date. Should the due date occur on a weekend or legal holiday, the return must be received by the Tax Administrator on the first regular working day following the weekend or legal holiday. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between financial accounts, made by a service supplier in satisfaction of its obligations under this subsection shall be considered timely if the transfer is initiated on or before the due date, and the transfer settles into the City's account on the following business day.

B. Failure to Collect or Remit. If the person required to collect and/or remit the telecommunication or video users' tax fails to collect the tax (by failing to properly assess the tax on one or more services or charges on the customer's billing) or fails to remit the tax collected on or before the due date, the Tax Administrator shall attach a penalty for such delinquencies or deficiencies at the rate of fifteen (15%) percent of the total tax that is delinquent or deficient in the remittance, and shall pay interest at the rate of and 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

C. Penalties for Fraud or Gross Negligence in Reporting or Remitting. The Tax Administrator shall have the power to impose additional penalties upon persons required to collect and remit taxes pursuant to the provisions of this Chapter for fraud or gross negligence in reporting or remitting at the rate of fifteen (15%) percent of the amount of the tax collected and/or required to be remitted, or as recomputed by the Tax Administrator.

D. Penalties Dues As Tax. For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this section shall become a part of the tax herein required to be paid.

E. Authority to Modify Due Dates. Notwithstanding the foregoing, the Tax Administrator may, in his or her discretion, modify the due dates of this Chapter to be consistent with any uniform standards or procedures that are mutually agreed upon by other public agencies imposing a utility users tax, or otherwise legally established, to create a central payment location or mechanism. (Ord. 5471, 2008.)

4.26.100 Actions to Collect.

Any tax required to be paid by a service user under the provisions of this Chapter shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit and shall no longer be a debt of the service user. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount, including penalties and interest as provided for in this Chapter, along with any collection costs incurred by the City as a result of the person's noncompliance with this Chapter, including, but not limited to, reasonable attorneys fees. Any tax required to be collected by a service supplier or owed by a service user is an unsecured priority excise tax obligation under *11 U.S.C.A. Section 507(a)(8)(C)*. (Ord. 5471, 2008.)

4.26.110 Deficiency Determination and Assessment – Tax Application Errors.

A. Tax Deficiency Determinations. The Tax Administrator shall make a deficiency determination if he or she determines that any service user or service supplier required to pay or collect taxes pursuant to the provisions of this Chapter has failed to pay, collect, and/or remit the proper amount of tax by improperly or failing to apply the tax to one or more taxable services or charges. Nothing herein shall require that the Tax Administrator institute proceedings under this Section 4.26.110 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

B. Notice of Deficiency. The Tax Administrator shall mail a notice of such deficiency determination to the person or entity allegedly owing the tax, which notice shall refer briefly to the amount of the taxes owed, plus interest at the rate of 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax from the date on which the tax should have been received by the City. Within fourteen (14) calendar days after the date of service of such notice, the person or entity allegedly owing the tax may request in writing to the Tax Administrator for a hearing on the matter.

C. Hearing on Deficiency. If the person or entity allegedly owing the tax fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City. If such person or entity requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be scheduled within thirty (30) days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person at least ten (10) calendar days prior to the hearing, and, if the Tax Administrator desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced.

D. Determination after Hearing. At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), thereafter, by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to person or entity owing the tax. The decision of the Tax Administrator may be appealed pursuant to Section 4.26.170 of this Chapter. Filing an application with the Tax Administrator and appeal to the City Manager pursuant to Section 4.26.170 of this Chapter is a prerequisite to a suit thereon.

E. Delinquencies. Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be fifteen percent (15%) on the total amount of the assessment, along with interest at the rate of 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this Chapter shall commence from the date of delinquency as provided in this subsection (E).

F. Notice of Delinquency. All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing. (Ord. 5471, 2008.)

4.26.120 Administrative Remedy – Non-Paying Service Users.

A. Administrative Remedies for the Obligation to Collect Tax. Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by the service user from the amounts remitted to a person required to collect the tax, or whenever the Tax Administrator deems it in the best interest of the City, he or she may relieve such person of the obligation to collect the taxes due under this Chapter from certain named service users for specific billing periods. To the extent the service user has failed to pay the amount of tax owed for a period of two (2) or more billing periods, the service supplier shall be relieved of the obligation to collect taxes due. The service supplier shall provide the City with the names and addresses of such service users and the amounts of taxes owed under the provisions of this Chapter. Nothing herein shall require that the Tax Administrator institute proceedings under this Section 4.26.120 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

B. Delinquency Penalty. In addition to the tax owed, the service user shall pay a delinquency penalty at the rate of fifteen percent (15%) of the total tax that is owed, and shall pay interest at the rate of 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the due date, until paid.

C. Notice to Non-Paying Service User. The Tax Administrator shall notify the non-paying service user that the Tax Administrator has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes, including penalties and interest. The notice shall be served on the service user by personal delivery or by deposit of the notice in the United States mail, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have a change of address, to his or her last known address.

D. Additional Penalties. If the service user fails to remit the tax to the Tax Administrator within thirty (30) days from the date of the service of the notice upon him or her, the Tax Administrator may impose an additional penalty of fifteen percent (15%) of the amount of the total tax that is owed. (Ord. 5471, 2008.)

4.26.130 Additional Powers and Duties of the Tax Administrator.

A. Enforcement by Tax Administrator. The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each and all of the provisions of this Chapter.

B. Administrative Regulations Regarding Payment. The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this Chapter for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. The administrative ruling shall not impose a new tax, revise an existing tax methodology as stated in this Section, or increase an existing tax, except as allowed by California Government Code Section 53750(h)(2). A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. To the extent that the Tax Administrator determines that the tax imposed under this chapter shall not be collected in full for any period of time from any particular service supplier or service user, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code section 53750 and the City does not waive or abrogate its ability to impose the telecommunication or video users tax in full as a result of promulgating administrative rulings or entering into agreements.

C. Administrative Agreements Regarding Billing Procedures. Upon a proper showing of good cause, the Tax Administrator may make administrative agreements, with appropriate conditions, to vary from the strict requirements of this Chapter and thereby: (1) conform to the billing procedures of a particular service supplier so long as said agreements result in the collection of the tax in conformance with the general purpose and scope of this Chapter; or, (2) to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the tax benefit. A copy of each such agreement shall be on file in the Tax Administrator's office, and are voidable by the Tax Administrator or the City at any time.

D. Compliance Audits. The Tax Administrator may conduct an audit, to ensure proper compliance with the requirements of this Chapter, of any person required to collect and/or remit a tax pursuant to this Chapter. The Tax Administrator shall notify said person of the initiation of an audit in writing. In the absence of fraud or other intentional misconduct, the audit period of review shall not exceed a period of three (3) years next preceding the date of receipt of the written notice by said person from the Tax Administrator. Upon completion of the audit, the Tax Administrator may make a deficiency determination pursuant to Section 4.26.110(d) of this Chapter for all taxes (and applicable penalties and interest) owed and not paid, as evidenced by information provided by such person to the Tax Administrator. If said person is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this Chapter, the Tax Administrator is authorized to make a reasonable estimate of the deficiency. Said reasonable estimate shall be entitled to a rebuttable presumption of correctness.

E. Extension of Time. Upon receipt of a written request of a taxpayer, and for good cause, the Tax Administrator may extend the time for filing any statement required pursuant to this Chapter for a period of not to exceed forty-five (45) days, provided that the time for filing the required statement has not already passed when the request is received. No penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension at the rate of 75/100ths (0.75%) percent per month, prorated for any portion thereof.

F. Eligibility for Exemption. The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from, or a refund of, the tax imposed by this Chapter.

G. Waiver of Penalties and Interest. Notwithstanding any provision in this Chapter to the contrary, the Tax Administrator may waive any penalty or interest imposed upon a person required to collect and/or remit for failure to collect the tax imposed by this Chapter if the non-collection occurred in good faith. In determining whether the non-collection was in good faith, the Tax Administrator shall take into consideration industry practice or other precedence. (Ord. 5471, 2008.)

4.26.140 Records.

A. Retention of Necessary Tax Records. It shall be the duty of every person required to collect and/or remit to the City any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at a reasonable time.

B. Administrative Subpoenas. The City may issue an administrative subpoena to compel a person to deliver, to the Tax Administrator, copies of all records deemed necessary by the Tax Administrator to establish compliance with this Chapter, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the person in the usual and ordinary course of business. As an alternative to delivering the subpoenaed records to the Tax Administrator on or before the due date provided in the administrative subpoena, such person may provide access to such records outside the City on or before the due date, provided that such person shall reimburse the City for all reasonable travel expenses incurred by the City to inspect those records, including travel, lodging, meals, and other similar expenses, but excluding the normal salary or hourly wages of those persons designated by the City to conduct the inspection.

C. Non-Disclosure Agreements. The Tax Administrator is authorized to execute a non-disclosure agreement approved by the City Attorney to protect the confidentiality of customer information pursuant to California Revenue and Tax Code Sections 7284.6 and 7284.7.

D. Use of Billing Agents. If a service supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the service supplier shall: i) provide to the Tax Administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the service supplier to bill, collect, and/or remit the tax to the City; and, ii) upon request of the Tax Administrator, deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such tax to the City.

E. Access to Necessary Records. If any person subject to record-keeping under this section unreasonably denies the Tax Administrator access to such records, or fails to produce the information requested in an administrative subpoena within the time specified, then the Tax Administrator may impose a penalty of \$500 on such person for each day following: i) the initial date that the person refuses to provide such access; or, ii) the due date for production of records as set forth in the administrative subpoena. This penalty shall be in addition to any other penalty imposed under this Chapter. Ord. 5471, 2008.)

4.26.150 Refunds.

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter from a person or service supplier, it may be refunded as provided in this section as follows:

A. Written Claim for Refund. The Tax Administrator may refund any tax that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter from a person or service supplier, provided that no refund shall be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor, or administrator has submitted a written claim to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. Nothing herein shall permit the filing of a claim on behalf of a class or group of taxpayers unless each member of the class has submitted a written claim under penalty of perjury as provided by this subsection.

B. Compliance with Claims Act. The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit thereon. Any action brought against the City pursuant to this section shall be subject to the provisions of Government Code Sections 945.6 and 946. The Tax Administrator, or the City Council where the claim is in excess of five thousand dollars (\$5,000), shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the Tax Administrator/City Council fails or refuses to act on a refund claim within the time prescribed by Government Section 912.4, the claim shall be deemed to have been rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. The Tax Administrator shall give notice of the action in a form which substantially complies with that set forth in Government Code Section 913.

C. Refunds to Service Suppliers. Notwithstanding the notice provisions of subsection (A) of this Section, the Tax Administrator may, at his or her discretion, give written permission to a service supplier, who has collected and remitted any amount of tax in excess of the amount of tax imposed by this Chapter, to claim credit for such overpayment against the amount of tax which is due the City upon a subsequent monthly return(s) to the Tax Administrator, provided that: i. such credit is claimed in a return dated no later than one year from the date of overpayment or erroneous collection of said tax; ii. the Tax Administrator is satisfied that the underlying basis and amount of such credit has been reasonably established; and, iii. in the case of an overpayment by a service user to the service supplier that has been remitted to the City, the Tax Administrator has received proof, to his or her satisfaction, that the overpayment has been refunded by the service supplier to the service user in an amount equal to the requested credit.

D. Overpayments as Credits. Notwithstanding subsections (A) through (C) above, a service supplier shall be entitled to take any overpayment as a credit against an underpayment whenever such overpayment has been received by the City within the three (3) years next preceding a deficiency determination or assessment by the Tax Administrator in connection with an audit instituted by the Tax Administrator pursuant to Section 4.26.130(D). A service supplier shall not be entitled to said credit unless it clearly establishes the right to the credit by written records showing entitlement thereto. Under no circumstances shall an overpayment taken as a credit against an underpayment pursuant to this subsection qualify a service supplier for a refund to which it would not otherwise be entitled under the one-year written claim requirement of this section. (Ord. 5471, 2008.)

4.26.160 Low Income, Senior, Disabled, or Other Consumer Exemption – Refunds.

Any individual who qualifies for an exemption under Santa Barbara Municipal Code section 4.24.080 shall be exempt from the tax imposed by this chapter and any such tax paid by any such individual is subject to refund under Section 4.26.150. Service suppliers are not required to implement this exemption; the sole remedy shall be a refund of paid taxes by the taxpayer, as provided herein. (Ord. 5471, 2008.)

4.26.170 Appeals.

A. Administrative Appeals. The provisions of this section apply to any decision (other than a decision relating to a refund pursuant to Section 4.26.150 of this Chapter), deficiency determination, assessment, or administrative ruling of the Tax Administrator. Any person aggrieved by any decision (other than a decision relating to a refund pursuant to Section 4.26.150 of this Chapter), deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this section. Compliance with this section shall be a prerequisite to a suit thereon. [See Government Code Section 935(b)]. Nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers.

B. Appeal to City Administrator. If any person is aggrieved by any decision (other than a decision relating to a refund pursuant to Section 4.26.150 of this Chapter), deficiency determination, assessment, or administrative ruling of the Tax Administrator; he or she may appeal to the City Administrator by filing a notice of appeal with the City Clerk within fourteen (14) days of the date of the decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved the service user or service supplier.

C. Scheduling of Administrative Appeal Hearing. The matter shall be scheduled for hearing before an independent hearing officer selected by the City Administrator, no more than thirty (30) days from the receipt of the appeal. The appellant shall be served with notice of the time and place of the hearing, as well as any relevant materials, at least five (5) calendar days prior to the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the Tax Administrator, and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

D. Notice of Decision. Based upon the submission of such evidence and the review of the City's files, the hearing officer shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6.

E. Manner of Notice. All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing. (Ord. 5471, 2008.)

4.26.180 No Injunction/Writ of Mandate.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected and/or remitted. (Ord. 5471, 2008.)

4.26.190 Notice of Changes to Ordinance.

If a tax under this Chapter is added repealed, increased, reduced, or the tax base is changed, the Tax Administrator shall follow the notice requirements of *California Public Utilities Code Section 799*. (Ord. 5471, 2008.)

4.26.200 Effect of State and Federal Reference/Authorization.

Unless specifically provided otherwise, any reference to a state or federal statute in this Chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease (as a result of excluding all or a part of a communication service, or charge therefor, from taxation). Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

To the extent that the City's authorization to collect or impose any tax imposed under this Chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this Chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this Chapter. (Ord. 5471, 2008.)

4.26.210 Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure.

The City shall annually verify that the taxes owed under this Chapter have been properly applied, exempted, collected, and remitted in accordance with this Chapter, and properly expended according to applicable municipal law. The annual verification shall be performed by a qualified independent third party and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits. The verification shall not be required of tax remitters where the cost of the verification may exceed the tax revenues to be reviewed. (Ord. 5471, 2008.)

4.26.220 Interaction with Prior Tax.

A. Satisfaction of Tax Obligation by Service Users. Any person who pays the tax levied pursuant to Sections 4.26.040 or 4.26.050 of this Chapter with respect to any charge for a telecommunication or video service shall be deemed to have satisfied his or her obligation to pay the tax levied pursuant to Sections 4.24.020 and 4.24.070 of this Code with respect to that charge. Likewise, prior to April 1, 2009, any person who pays the tax levied pursuant to Sections 4.24.020 and 4.24.070 of this Code with respect to any charge for a service subject to taxation pursuant to this Chapter shall be deemed to have satisfied his or her obligation to pay the tax levied pursuant to Sections 4.26.040 or 4.26.050 of this Chapter with respect to that charge. The intent of this paragraph is to prevent the imposition of multiple taxes upon a single utility charge during the transition period from the prior telecommunication and video users' tax to the new telecommunication and video users' tax (which transition period ends April 1, 2009) and to permit telecommunication and video service providers, during that transition period, to satisfy their collection obligations by collecting either tax.

B. Collection of Tax by Service Providers. Service providers shall begin to collect the tax imposed by this Chapter as soon as feasible after the effective date of the Chapter, but in no event later than permitted by Section 799 of the California Public Utilities Code.

C. Judicial Determinations. In the event that a final court order should determine that the election enacting this Chapter 4.26 is invalid for whatever reason, or that any tax imposed under this Chapter Section 4.26 is invalid in whole or in part, then the tax imposed under Sections 4.24.020 and 4.24.070 (unless repealed) shall automatically continue to apply with respect to any service for which the tax levied pursuant to this Chapter has been determined to be invalid. Such automatic continuation shall be effective beginning as of the first date of service (or billing date) for which the tax imposed by this Chapter is not valid. However, in the event of an invalidation, any tax (other than a tax that is ordered refunded by the court or is otherwise refunded by the City) paid by a person with respect to a service and calculated pursuant to this Chapter shall be deemed to satisfy the tax imposed under Section 4.24.020 and 4.24.070 on that service, so long as the tax is paid with respect to a service provided no later than six months subsequent to the date on which the final court order is published. (Ord. 5471, 2008.)

4.26.230 Remedies Cumulative.

All remedies and penalties prescribed by this Chapter or which are available under any other provision of law or equity, including but not limited to the *California False Claims Act (Government Code Section 12650 et seq.)* and the *California Unfair Practices Act (Business and Professions Code Section 17070 et seq.)*, are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter. (Ord. 5471, 2008.)

Chapter 4.28

SALE OF REAL PROPERTY

Sections:

4.28.010	Authorization to Sell.	4.28.030	Bid Reading - Oral Bids - Sale Announcement.
4.28.020	Notice Inviting Bids - Publication - Contents.		

4.28.010 Authorization to Sell.

Real property owned by the City, the value of which is appraised at less than five thousand dollars (\$5,000.00), and which the City Council is authorized to sell pursuant to the provisions of Section 520 of the Charter of the City, may be sold pursuant to the procedure hereinafter prescribed. (Ord. 3424 §1, 1970.)

4.28.020 Notice Inviting Bids - Publication - Contents.

Notice inviting bids shall be published at least ten (10) days before the date of opening of bids. The notice shall be published at least once in a newspaper of general circulation, printed and published in the City. The notice shall contain a general description of the property to be sold, the terms of the proposed sale, the nature of security required, if any, and the time and place for opening bids. The notice may designate a minimum acceptable price. (Ord. 3424 §2, 1970.)

4.28.030 Bid Reading - Oral Bids - Sale Announcement.

At the time and place of opening bids, the City Clerk shall open and read all bids received. Any citizen present at such time and place may orally bid an amount not less than ten percent (10%) greater than the highest bid opened and read by the Clerk. Such increased bid may be orally increased in increments of not less than three percent (3%) until the subject property is sold. The Mayor shall announce the sale, giving the name of the purchaser and the price to be paid. The City Attorney shall prepare the appropriate instrument of transfer and submit the same to the Council for execution at the next regular meeting. (Ord. 3424 §3, 1970.)

Chapter 4.32
SPECIAL FUNDS

Section:

4.32.010 Established - Designated.

4.32.010 Established - Designated.

Pursuant to the provisions of Section 1215 of the Charter of the City, there are created and established the following special funds:

- (1) Water Fund;
- (2) Airport Fund;
- (3) Special Gas Tax Fund;
- (4) Special Aviation Fund;
- (5) Traffic Safety Fund;
- (6) Harbor Improvement Revenue Fund No. 1;
- (7) Harbor Improvement Revenue Fund No. 2;
- (8) Bond Interest and Redemption Fund;
- (9) Federal Assistance Trust Fund;
- (10) Workers' Compensation Trust Fund. (Ord. 3693 §1, 1974; Ord. 3574, 1972.)

Chapter 4.36

PARKING AND BUSINESS IMPROVEMENT AREA TAX

Sections:

4.36.010	Area Established.	4.36.110	Failure to Pay Tax - Penalty.
4.36.020	Definitions.	4.36.130	Use of Revenues.
4.36.030	Tax Imposed - Zones Designated.	4.36.140	Information Confidential.
4.36.040	Tax Rates.	4.36.150	Tax Deemed Debt to City.
4.36.050	Exclusions.	4.36.160	Failure to Pay Tax - Determination of Tax Due.
4.36.060	Off-premises Businesses.	4.36.170	Appeal.
4.36.070	Savings and Loan Associations.	4.36.180	Records - Inspection.
4.36.080	Credit Against Additional Annual Business Tax.	4.36.190	Violation.
4.36.090	Exemptions Within Blocks 321 and 313.	4.36.200	Enforcement.
4.36.100	Payment When.	4.36.210	Boundaries.
		4.36.220	Severability.

4.36.010 Area Established.

Pursuant to the provisions of Part 5 (commencing with Section 36000) of Division 18 of the Streets and Highways Code of the State of California, which part is entitled the Parking and Business Improvement Area Law of 1965, a parking and business improvement area is established. The boundaries of the Parking and Business Improvement Area shall be as shown on the map, the official copy of which is on file in the Office of the City Clerk which map is entitled "City of Santa Barbara, Central Business District, Parking and Business Improvement Area". (Ord. 3463 §2, 1971.)

4.36.020 Definitions.

As used in this chapter:

- (a) "Person" means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common-law trusts, societies, and individuals transacting and carrying on any business in the City;
- (b) "Business" means professions, trades and occupations and all and every kind of calling carried on for profit or livelihood;
- (c) "Gross floor area" means all of the area within the perimeter walls of a building, including but not limited to, partitions, restrooms, storage rooms, file rooms and work rooms. A mezzanine shall be considered separate floor area. Gross floor area does not include interior patios or uncovered pedestrian walks;
- (d) "Improvement area" or "area" means the Parking and Business Improvement Area established herein pursuant to the Parking and Business Improvement Area Law of 1965. (Ord. 3463 §1, 1971.)

4.36.030 Tax Imposed - Zones Designated.

There is imposed upon all businesses within the Parking and Business Improvement Area a tax which is in addition to the general business tax imposed by Chapter 5.04 of the Santa Barbara Municipal Code, and such businesses shall be subject to the provisions of the tax provided by the Parking and Business Improvement Area Law of 1965.

Varying benefits will be derived by the different businesses lying within said improvement area, and the area is therefore divided into zones according to benefits, each zone to be composed of and include all the businesses within the improvement area which will be benefited in like measure. The proposed zones and the percentages of benefit within each zone which is proposed to be used in computing the tax herein provided are as follows:

ZONE A: Zone A includes all those businesses within the improvement area which are marked 100 on the map. The percentage within said Zone A to be used in computing the tax herein provided is one hundred percent (100%).

ZONE B: Zone B includes those businesses within the improvement area which are marked 40 on the map. The percentage within said Zone B to be used in computing the tax herein provided is forty percent (40%).

ZONE C: Zone C includes those businesses within the improvement area which are marked 35 on the map. The percentage within said Zone C to be used in computing the tax herein provided is thirty-five percent (35%).

ZONE D: Zone D includes those businesses within the improvement area which are marked 30 on the map. The percentage within said Zone D to be used in computing the tax herein provided is thirty percent (30%).

ZONE E: Zone E includes those businesses within the improvement area which are marked 25 on the map. The percentage within said Zone E to be used in computing the tax herein provided is twenty-five percent (25%).

ZONE F: Zone F includes those businesses within the improvement area which are marked 20 on the map. The percentage within said Zone F to be used in computing the tax herein provided is twenty percent (20%). (Ord. 3463 §5, 1971.)

4.36.040 Tax Rates.

(a) The rates of the tax imposed by this chapter shall be as follows:

(1) Retail and/or wholesale businesses:

Group 1 - Retail and/or wholesale businesses with an average sale of less than twenty dollars (\$20.00), sixty-five cents (\$0.65) per hundred dollars (\$100.00) of gross sales.

Group 2 - Retail and/or wholesale businesses with an average sale between twenty dollars and one hundred dollars (\$20-100), thirty-four cents (\$0.34) per hundred dollars (\$100.00) of gross sales.

Group 3 - Retail and/or wholesale businesses with an average sale of more than one hundred dollars (\$100.00), nineteen cents (\$0.19) per one hundred dollars (\$100.00) of gross sales.

As used in this subdivision (1), average sale is computed by dividing the total gross sales for the year by the number of sales transactions;

(2) Savings and loan associations, thirty-eight dollars (\$38.00) per million dollars (\$1,000,000.00) of savings on deposit in offices within the Parking and Business Improvement Area;

(3) Stock and bond brokerage offices, ninety-five dollars (\$95.00) per broker;

(4) Theaters and bus depots, seven cents (\$0.07) per square foot;

(5) Every person conducting or carrying on any business, profession or occupation hereinafter enumerated shall pay an annual tax at the rate of thirty-eight dollars (\$38.00) per person practicing his profession, and nineteen dollars (\$19.00) for each nonprofessional in addition to the above. The enumerated businesses, professions and occupations are: Accountant; advertising agent; appraiser; artist; architect; assayer; attorney at law; auditor, bacteriologist; commission agent; chemist; certified public accountant; chiropodist; chiropractor; court reporter; civil, electrical, mining, chemical, structural, consulting or hydraulic engineer; dental technician; dentist; designer; illustrator or decorator; detective agency and/or private patrol; draftsman; drugless practitioner; electrologist; engineer; engraver; entomologist; geologist; illustrator or show card writer; insurance broker and agent; insurance or claims adjuster; interpreter; landscape gardener or architect; lapidary; masseuse; mercantile agency; mortician, naturopath, oculist; optician, optometrist; osteopath; photographer; physician; physicist; physiotherapist; piano tuner; public stenographer; real estate broker and agent; registered representative and investment advisor other than stock and bond broker; roentgenologist; scientist; sign painter; surgeon; surveyor; taxidermist; termite inspector; veterinarian; and every person conducting or carrying on the business of treating, curing administering to or giving treatments to the sick, wounded or infirm for the purpose of bringing about their recovery, by any method or pursuant to any belief, doctrine or system other than those hereinabove specifically named and charging a fee or compensation therefor;

(6) All categories not otherwise provided for, twenty-two cents (\$0.22) per square foot of gross floor area;

(7) Hotels, residences, alleys, private parking and businesses engaged in auto repairing or servicing, warehousing and manufacturing, shall be exempt from the additional annual business tax, provided that the businesses last enumerated shall be subject to the additional tax for the portion of business area devoted to office space or retail sales in connection with the business;

(b) The rates provided in subparagraph (a) above and in subparagraph (b) of Section 4.36.030, shall be reviewed at the end of each calendar quarter to ensure that the revenues provided by said rates shall be sufficient to effect the purposes enumerated herein. If, upon review, the rates, in whole or in part, are determined to be inadequate or excessive to accomplish the purposes enumerated herein, an adjusted schedule of rates shall be submitted to the City Council for adoption in accordance with Section 36061 of the California Streets and Highways Code. (Ord. 3528 §1, 1972.)

4.36.050 Exclusions.

(a) In instances where the tax is computed on the basis of square footage, for purposes of computation of the tax there shall be excluded unoccupied area and with respect to area occupied for a portion of the tax period there shall be excluded the portion of the area equal to the portion of the period during which the area was unoccupied.

(b) For the purpose of computing the square footage on which the tax is computed for telephone and telegraph businesses, there shall be excluded in addition to the exclusions provided in subsection (a), all areas occupied by telephone or telegraph equipment used in interstate commerce, and any area not clearly devoted to intrastate activities to the end that interstate commerce shall not be unreasonably burdened by the tax herein provided. (Ord. 3528 §2, 1972.)

4.36.060 Off-premises Businesses.

Businesses within the combined zone of benefit which have gross sales transactions which are originated, negotiated and executed off the main business premises shall be designated "off-premises businesses" if at least thirty-five percent (35%) of such sales transactions are so consummated. Off-premises business shall be assessed on the basis of the gross sale transactions originated, negotiated or executed on the premises. (Ord. 3528 §3, 1972.)

4.36.070 Savings and Loan Associations.

The tax on savings and loan associations shall be based upon deposits as of the first day of January of each year. The tax shall be payable on or before January 15th; provided, that the taxpayer may elect to pay the tax in quarterly installments. (Ord. 3463 §9, 1971.)

4.36.080 Credit Against Additional Annual Business Tax.

Each business within the combined zone of benefit shall be entitled to a credit against the additional annual business tax representing the percentage of the required parking area which each such business provides. The credit for each business shall be limited to a maximum of seventy-five percent (75%) of the additional annual tax assessed for that business. For the purposes of computing the percentage credit, the area of required parking shall be equal to the gross floor area of the business. To qualify for the credit parking areas provided by businesses must be improved to the current standards of the City, be open to patrons of the business and shall be located within two hundred fifty feet (250') of the business claiming the credit. (Ord. 3463 §10, 1971.)

4.36.090 Exemptions Within Blocks 321 and 313.

During the period that no public parking facility is in operation in Assessor Block No. 321 (known as Parking Lot No. 2 Block) due to the construction of a public parking structure within that block, an exemption equal to seventy-five percent (75%) of the tax herein imposed shall be allowed for businesses within Assessor's Blocks Nos. 321 and 313 of the improvement area. This exemption is in recognition of the reduced benefits being received by those businesses during such construction period. (Ord. 4515, 1988; Ord. 3463, 1971.)

4.36.100 Payment When.

Except for taxes due under this chapter from November 16, 1970, through December 13, 1970, which amounts shall be due and payable at the same time as the tax imposed hereunder for the first calendar quarter of 1971, taxes shall be payable on or before the 15th day following the close of each calendar quarter, and shall be based upon the gross sales, square feet of floor area, gross deposits, or number of persons, as the case may be, for such preceding calendar quarter. Taxes shall be delinquent after the last day of the month which follows the end of a calendar quarter.

Payments shall be accompanied by returns, on forms provided by the Tax Collector. Each owner or operator of a business shall correctly fill in the return, sign the same and certify under penalty of perjury that the contents are true and correct.

If a person is not in business for a full calendar quarter and the tax is not based upon gross sales, the amount of tax shall be pro-rated according to the proportion of the quarter in which he was engaged in business.

Notwithstanding the foregoing provisions, if a person ceases to engage in business, the tax shall become due immediately and shall become delinquent thirty (30) days thereafter. (Ord. 3463 §12, 1971.)

4.36.110 Failure to Pay Tax - Penalty.

For failure to pay a tax on or before the delinquency date, the Tax Collector shall add a penalty of ten percent (10%), and he shall add an additional penalty of ten percent (10%) at the end of each thirty (30) day period thereafter; provided, that the amount of such penalty to be added shall in no event exceed fifty percent (50%) of the tax to which the penalty rates herein provided for have been applied. (Ord. 3463 §13, 1971.)

4.36.130 Use of Revenues.

The uses to which the revenues received by this tax shall be put shall be the maintenance of vehicular off-street parking facilities heretofore or hereafter acquired, constructed and established by the City pursuant to the provisions of Chapter 10.68 of the Santa Barbara Municipal Code, the payment of principal and interest on bonds heretofore or to be hereafter issued of the Santa Barbara Vehicular Off-Street Parking Districts No. 1 and No. 2, and approximately to the extent that the tax to be levied and collected equals the loss of revenue from said public parking facilities by a provision of one and one-half (1-1/2) hours of free parking in each of said public parking facilities. (Ord. 3463 §15, 1971.)

4.36.140 Information Confidential.

The information furnished or secured pursuant to this chapter relative to gross sales or number of employees shall be confidential. Any willful or unwarranted disclosure or use of such confidential information by any officer or employee of the City constitutes a misdemeanor. (Ord. 3463 §16, 1971.)

4.36.150 Tax Deemed Debt to City.

The amount of any tax imposed by this chapter shall be deemed a debt to the City, and any person carrying on any business without paying a tax as herein required, shall be liable to an action in the name of the City in any court of competent jurisdiction, for the amount of the tax imposed on such business by this chapter, together with all penalties then due thereon, and the sum of thirty-five dollars (\$35.00), which, if judgment be recovered, shall be applied as attorney's fees for the plaintiff, and included and assessed as recoverable costs in the action. (Ord. 3463 §17, 1971.)

4.36.160 Failure to Pay Tax - Determination of Tax Due.

If any person fails or refuses to make within the time provided by this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the Tax Collector shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Tax Collector procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any person who has failed or refused to make such report or remittance, he shall proceed to determine and assess against such person the tax and penalties provided for by this chapter. In case such determination is made, the Tax Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the person so assessed at his last known place of address. Such person may, within ten (10) days of the serving or mailing of such notice make application in writing to the Tax Collector for a hearing on the amount assessed. If application by the person for a hearing is not made within the time prescribed, the tax and penalties determined by the Tax Collector shall become final and conclusive and immediately due and payable. If such application is made, the Tax Collector shall give not less than five (5) days' written notice in the manner prescribed herein to the person to show cause at the time and place fixed in said notice why said amount specified therein should not be fixed for such tax and penalties. At such hearing the person may appear and offer evidence why such specified tax and penalties should not be so fixed. After such hearing, the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 4.36.170. (Ord. 3463 §18, 1971.)

4.36.170 Appeal.

Any person aggrieved by any decision of the Tax Collector with respect to the amount of such tax and penalties may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3463 §19, 1971.)

4.36.180 Records - Inspection.

It shall be the duty of every person liable for the payment to the City of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for, which records the Tax Collector shall have the right to inspect at all reasonable times. (Ord. 3463 §20, 1971.)

4.36.190 Violation.

Any person violating any of the provisions of this chapter, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact relating to the tax herein imposed is guilty of a misdemeanor. (Ord. 3463 §21, 1971.)

4.36.200 Enforcement.

The City Tax Collector shall enforce the provisions of this chapter. (Ord. 3463 §22, 1971.)

4.36.210 Boundaries.

The boundaries of the Parking and Business Improvement Area shall be the line designated on the map on file in the Office of the City Clerk, (20% CZB Boundary) and the area within that boundary shall constitute the Parking and Business Improvement Area. (Ord. 3463 §23, 1971.)

4.36.220 Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this chapter, or the application thereof to any person or circumstances, is for any reason held invalid, the validity of the remainder of this chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby. The City Council declares that it would have adopted this chapter, and each section, subsection, paragraph, subparagraph, sentence, clause or phrase thereof irrespective of the fact that one (1) or more sections, subsections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstances, is held invalid. (Ord. 3463 §24, 1971.)

Chapter 4.37

DOWNTOWN PARKING AND BUSINESS IMPROVEMENT AREA ASSESSMENT DISTRICT

Sections:

4.37.010	Area Established.	4.37.110	Information Confidential.
4.37.015	Findings.	4.37.120	Assessment Deemed Debt to City.
4.37.020	Definitions.	4.37.130	Failure to Pay Assessment - Determination of Assessment Due.
4.37.030	Assessment Imposed - Zones Designated.	4.37.140	Records - Inspection.
4.37.040	Assessment Rates.	4.37.145	Annual Assessment Report and Assessment Resolution.
4.37.050	Exclusions.	4.37.150	Enforcement.
4.37.060	Off-premises Businesses.	4.37.160	Boundaries.
4.37.080	Credit Against Additional Annual Business Assessment.	4.37.170	Severability.
4.37.090	Payment When.	4.37.180	Suspension of Collection of the 1971 Parking and Business Improvement Area Tax.
4.37.100	Failure to Pay Assessment - Penalty.		

4.37.010 Area Established.

Pursuant to the provisions of Part 6 (commencing with Section 36500) of Division 18 of the Streets and Highways Code of the State of California, which part is entitled the Parking and Business Improvement Area Law of 1989, a parking and business improvement area is hereby established. The boundaries of the Parking and Business Improvement Area shall be as shown on a map, the official copy of which is on file in the Office of the City Clerk which map is entitled "City of Santa Barbara, Parking and Business Improvement Area of 1999". (Ord. 5126, 1999; Ord. 4719, 1991.)

4.37.015 Findings.

The City Council of the City of Santa Barbara finds and determines as follows:

1. That on August 6, 1991, the City Council adopted a "Resolution of the Council of the City of Santa Barbara" declaring the City Council's Intention to Form a Downtown Parking and Business Improvement Area Assessment District and Preliminarily Approving the City Engineer's Report" thereon as City Resolution No. 91-126 and called for a public hearing on September 3, 1991. (Hereinafter the "Resolution of the Intention.")
2. That the public hearing was held pursuant to the Resolution of Intention on September 3, 1991 at 10:45 AM in the City Council chambers of the City of Santa Barbara to consider protests to the proposed PBI Benefit Assessment District, to consider any and all proposed revisions to the proposed PBI Benefit Assessment District and to consider all public comments thereon.
3. That a majority of the businesses subject to the proposed PBI Benefit Assessment District have not protested the formation of a such a benefit assessment district.
4. That the method and basis of levying the PBI Benefit Assessment shall be as described in this Ordinance and the Final Engineer's Report prepared by the City Engineer and dated July 1991.
5. The Improvements and Activities to be provided in the Downtown PBI Benefit Assessment District will be funded by the proposed assessments and the revenue from the assessments will not be used to provide any improvements or activities outside the Downtown PBI Benefit Assessment Area.
6. The businesses and the properties within the Downtown PBI Benefit Assessment Area will be benefitted by the Improvements and Activities to be funded by the PBI Assessments and such benefit is amply demonstrated by the Final Engineer's Report, the additional materials presented to the City Council in connection with the September 3, 1991 public hearing and the presentation, comments and evidence received by the City Council during the September 3, 1991 hearing on this matter. (Ord. 4719, 1991.)

4.37.020 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning (words and phrases not defined herein shall be as defined and construed in the "Parking and Business Improvement Area Law of 1989. (i.e., California Streets & Highway Code §§ 36500 - 36551).

A. **PERSON.** All domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common-law trusts, societies, and individuals transacting and carrying on any business in the City.

B. **BUSINESS.** Professions, trades and occupations, financial institutions and all and every kind of calling carried on for profit or livelihood.

C. GROSS FLOOR AREA. All of the usable area within the perimeter walls of a building, including but not limited to, partitions, restrooms, storage rooms, file rooms and work rooms. A mezzanine shall be considered separate floor area. Gross floor area does not include interior patios or uncovered pedestrian walks.

D. IMPROVEMENT AREA or AREA. The Santa Barbara Parking and Business Improvement Area of 1991 established herein pursuant to the State Parking and Business Improvement Area Law of 1989. (Ord. 4719, 1991.)

4.37.030 Assessment Imposed - Zones Designated.

There is imposed upon all businesses within the Parking and Business Improvement Area of 1991 an assessment which is in addition to the general business tax imposed by Chapter 5.04 of the Santa Barbara Municipal Code, and such businesses shall be subject to the provisions of the assessment as provided by the Parking and Business Improvement Area Law of 1989 including any amendments thereto.

Varying benefits will be derived by the different businesses lying within said improvement area, and the area is therefore divided into zones according to the benefits received from the improvements and activities funded by the improvement area assessments, each zone to be composed of and include all the businesses within the improvement or activity area which will be benefitted in like measure. The proposed zones and the percentages of benefit within each zone which is proposed to be used in computing the assessment herein provided are as follows:

ZONE A: Zone A includes all those businesses within the improvement or activity area which are marked 100 on the map. The zone of charge percentage within said Zone A to be used in computing the assessment herein provided is one hundred percent (100%).

ZONE B: Zone B includes those businesses within the improvement or activity area which are marked 40 on the map. The zone of charge percentage within said Zone B to be used in computing the assessment herein provided is forty percent (40%).

ZONE C: Zone C includes those businesses within the improvement or activity area which are marked 35 on the map. The zone of charge percentage within said Zone C to be used in computing the assessment herein provided is thirty-five percent (35%).

ZONE D: Zone D includes those businesses within the improvement or activity area which are marked 30 on the map. The zone of charge percentage within said Zone D to be used in computing the assessment herein provided is thirty percent (30%).

ZONE E: Zone E includes those businesses within the improvement or activity area which are marked 25 on the map. The zone of charge percentage within said Zone E to be used in computing the assessment herein provided is twenty-five percent (25%).

ZONE F: Zone F includes those businesses within the improvement or activity area which are marked 20 on the map. The zone of charge percentage within said Zone F to be used in computing the assessment herein provided is twenty percent (20%).

ZONE G: No assessment is imposed on businesses within the improvement activity areas which are shown as below the 20% zone of charge. (Ord. 4719, 1991.)

4.37.040 Assessment Rates.

The rates of assessment imposed by this Chapter shall be as follows:

I. RETAIL-WHOLESALE, THEATER AND FITNESS FACILITIES ASSESSMENT RATES.

Group A. SMALL PURCHASES. Retail and/or wholesale businesses with an average sale of less than twenty dollars (\$20.00), fifty-six cents (\$0.56) per hundred dollars (\$100.00) of gross sales.

Group B. MEDIUM PURCHASES. Retail and/or wholesale businesses with an average sale between twenty dollars and one hundred dollars (\$20-\$100), twenty-nine cents (\$0.29) per hundred dollars (\$100.00) of gross sales.

Group C. LARGE PURCHASES. Retail and/or wholesale businesses with an average sale of more than one hundred dollars (\$100.00), sixteen cents (\$0.16) per one hundred dollars (\$100.00) of gross sales.

Group D. THEATERS. Sixteen cents (\$0.16) per one hundred dollars (\$100.00) of gross sales.

Group E. FITNESS FACILITIES/HEALTH CLUBS. Twenty-nine cents (\$0.29) per one hundred dollars (\$100.00) of gross sales.

(As used in this subdivision (I), average sale is computed by dividing the total gross sales for the year by the number of sales transactions).

II. FINANCIAL INSTITUTIONS. Banks, savings and loan associations, thrift institutions, credit unions and all similar institutions, forty-eight cents (\$0.48) per usable square foot.

III. STOCK AND BOND BROKERAGE OFFICES. Eighty-one dollars and thirty cents (\$81.30) per broker.

IV. TRANSIT FACILITIES AND BUS DEPOTS. Six cents (\$0.06) per usable square foot.

V. PROFESSIONALS. Every person conducting or carrying on any business, profession or occupation hereinafter enumerated shall pay an annual assessment at the rate of thirty two dollars and fifty cents (\$32.50) per person practicing his profession, and sixteen dollars and thirty cents (\$16.30) for each nonprofessional in addition to the above. (The enumerated businesses, professions and occupations in subparagraph V shall be as described in Santa Barbara Municipal Code Section 5.04.420 as presently enacted or hereinafter amended.)

VI. EDUCATIONAL FACILITIES AND MISCELLANEOUS CLASSIFICATIONS.

Group A. EDUCATIONAL FACILITIES. Nineteen cents (\$0.19) per usable square foot.

Group B. MISCELLANEOUS. All classifications not otherwise provided for, nineteen cents (\$0.19) per usable square foot.

VII. HOTELS AND MOTELS. Two-hundred seventy dollars (\$270.00) per guestroom per year for guestrooms without assigned parking spaces.

VIII. MISCELLANEOUS EXEMPT BUSINESSES AND RESIDENCES. Residences, alleys, private parking, and businesses engaged in auto repairing, servicing or sales, and warehousing and manufacturing, shall be exempt from the additional annual business assessment, provided that the business described in this section shall be subject to the additional assessment for the portion of business area devoted to office space or retail sales in connection with that business. (Ord. 5521, 2010.)

4.37.050 Exclusions.

A. CALCULATION OF GROSS FLOOR AREA. In instances where the assessment is computed on the basis of square footage, for purposes of computation of the assessment there shall be excluded any unoccupied or unusable area and, with respect to area occupied for a portion of the assessment period, there shall be excluded the portion of the area equal to the portion of the period during which the area was unoccupied.

B. EXCLUSIONS FROM CALCULATIONS. For the purpose of computing the square footage on which the assessment is computed for telephone and telegraph businesses, there shall be excluded in addition to the exclusions provided in subsection (a), all areas occupied by telephone or telegraph equipment used in interstate commerce, and any area not clearly devoted to intrastate activities to the end that interstate commerce shall not be unreasonably burdened by the assessment herein provided. (Ord. 4719, 1991.)

4.37.060 Off-premises Businesses.

Businesses within the combined zone of charge which have gross sales transactions which are originated, negotiated and executed off the main business premises shall be designated "off-premises businesses" if at least thirty-five percent (35%) of such sales transactions are so consummated. Off-premises business shall be assessed on the basis of the gross sale transactions originated, negotiated or executed on the premises. (Ord. 4719, 1991.)

4.37.080 Credit Against Additional Annual Business Assessment.

Each business within the combined zone of charge shall be entitled to a credit against this assessment representing the percentage of the required on site parking which each such business provides. The credit for each business shall be limited to a maximum of seventy-five percent (75%) of the annual assessment assessed for that business. For the purposes of computing the percentage credit, the amount of required parking shall be determined based on the gross floor area of the business. To qualify for the credit, parking areas provided by businesses must be improved to the current standards of the City, be open to patrons of the business and shall be located within two hundred fifty feet (250') of the business claiming the credit. (Ord. 4719, 1991.)

4.37.090 Payment When.

The assessments collected pursuant to this ordinance shall be payable on or before the 15th day following the close of each calendar quarter, and shall be based upon the gross sales, square feet of gross floor area, gross deposits, or number of persons, as the case may be, for such preceding calendar quarter. Assessments shall be delinquent after the last day of the month which follows the end of a calendar quarter.

Payments shall be accompanied by returns, on forms provided by the City Finance Director. Each owner or operator of a business shall correctly fill in the return, sign the same and certify under penalty of perjury that the contents are true and correct.

If a person is not in business for a full calendar quarter and the assessment is not based upon gross sales, the amount of assessment shall be pro-rated according to the proportion of the quarter in which he was engaged in business.

Notwithstanding the foregoing provisions, if a person ceases to engage in business, the assessment shall become due immediately and shall become delinquent thirty (30) days thereafter. (Ord. 4719, 1991.)

4.37.100 Failure to Pay Assessment - Penalty.

For the failure to pay a assessment on or before the delinquency date, the City Finance Director shall add a penalty of ten percent (10%), and he shall add an additional penalty of ten percent (10%) at the end of each thirty (30) day period thereafter; provided, that the amount of such penalty to be added shall in no event exceed fifty percent (50%) of the assessment to which the penalty rates herein provided for have been applied. (Ord. 4719, 1991.)

4.37.110 Information Confidential.

The information furnished or secured pursuant to this Chapter relative to gross sales or number of employees shall be confidential only to the extent provided by State law. (Ord. 4719, 1991.)

4.37.120 Assessment Deemed Debt to City.

The amount of any assessment imposed by this chapter shall be deemed a debt to the City, and any person carrying on any business without paying a assessment as herein required, shall be liable to an action in the name of the City in any court of competent jurisdiction, for the amount of the assessment imposed on such business by this chapter, together with all penalties then due thereon. (Ord. 4719, 1991.)

4.37.130 Failure to Pay Assessment - Determination of Assessment Due.

If any person fails or refuses to make within the time provided by this Chapter, any report and remittance of the assessment or any portion thereof required by this chapter, the Finance Director shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the assessment due. As soon as the Finance Director procures such facts and information as he is able to obtain upon which to base the assessment of any assessment imposed by this chapter and payable by any person who has failed or refused to make such report or remittance, he shall proceed to determine and assess against such person the assessment and penalties provided for by this chapter. In case such determination is made, the Finance Director shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the person so assessed at his last known place of address. Such person may, within ten (10) days of the serving or mailing of such notice make application in writing to the Finance Director for a hearing on the amount assessed. If application by the person for a hearing is not made within the time prescribed, the assessment and penalties determined by the Finance Director shall become final and conclusive and immediately due and payable. If such application is made, the Finance Director shall give not less than five (5) days written notice in the manner prescribed herein to the person to show cause at the time and place fixed in said notice why said amount specified therein should not be fixed for such assessment and penalties. At such hearing the person may appear and offer evidence why such specified assessment and penalties should not be so fixed. After such hearing, the Finance Director shall determine the proper assessment to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such assessment and penalties. The amount determined to be due shall be payable after fifteen (15) days. The decision of the Finance Director shall be final and conclusive. (Ord. 4719, 1991.)

4.37.140 Records - Inspection.

It shall be the duty of every person liable for the payment to the City of any assessment imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such assessment as he may have been liable for, which records the Finance Director shall have the right to inspect at all reasonable times. (Ord. 4719, 1991.)

4.37.145 Annual Assessment Report and Assessment Resolution.

The City Council hereby designates the Downtown Parking committee as the "advisory board" to prepare an assessment report for each fiscal year and to forward such report to the City Council prior to the beginning of each fiscal year. The City Council will consider such report and take those actions necessary to levy the annual PBIA assessment as it may deem necessary and appropriate, all as described in more detail in "Parking and Business Improvement Area Law of 1989." (Ord. 4719, 1991.)

4.37.150 Enforcement.

The City Finance Director shall enforce the provisions of this Chapter. (Ord. 4719, 1991.)

4.37.160 Boundaries.

The boundaries of the Downtown Parking and Business Improvement Area of 1999 and the various zones of charge within the Area shall be as shown on a map on file with the City Clerk which map is entitled the "Parking and Business Improvement Area of 1999 Map". (Ord. 5126, 1999; Ord. 4719, 1991.)

4.37.170 Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this chapter, or the application thereof to any person or circumstances, is for any reason held invalid, the validity of the remainder of this Chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby. The City Council declares that it would have adopted this Chapter, and each section, subsection, paragraph, subparagraph, sentence, clause or phrase thereof irrespective of the fact that one (1) or more sections, subsections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstances, is held invalid. (Ord. 4719, 1991.)

4.37.180 Suspension of Collection of the 1971 Parking and Business Improvement Area Tax.

Except for the collection of delinquent taxes under Chapter 4.36, collection of the taxes imposed by Chapter 4.36 shall be suspended after the ordinance creating the Downtown Parking and Business Improvement Assessment Area of 1991 described in this Chapter 4.37 is effective and the City Council has adopted its first annual PBIA assessment resolution levying the PBIA Benefit Assessment, and for as long as such assessments can lawfully be collected in the Downtown Parking and Business Improvement Assessment Area of 1991. If the collection of such assessments is enjoined or determined to be invalid by any court of competent jurisdiction, said suspension of taxes collected under Chapter 4.36 shall automatically terminate. (Ord. 4719, 1991.)

Chapter 4.38

BUSINESS IMPROVEMENT AREA TAX

Sections:

4.38.010	Title and Establishment.	4.38.060	Disputes, Late Payment Penalties and Collections.
4.38.020	Definitions.	4.38.070	Uses.
4.38.030	Improvement Area.	4.38.080	Severability.
4.38.040	Businesses Subject to Tax.	4.38.090	Suspension of Collection of Taxes.
4.38.050	Tax Rates and Due Dates.		

4.38.010 Title and Establishment.

The tax imposed by this chapter shall be known as the "Business Improvement Area Tax". Pursuant to the provisions of Part 5 (commencing with Section 36000) of Division 18 of the Streets and Highways Code of the State of California, a business improvement area is hereby established. The intention to establish the improvement area is set forth in Resolution No. 8141, dated November 4, 1975, entitled, "A Resolution of the Council of the City of Santa Barbara Declaring Its Intention to Establish a Business Improvement Area in the City of Santa Barbara Pursuant to the Parking and Business Improvement Area Law of 1965". A hearing on formation of said Business Improvement Area was held on November 18, 1975, at 2:00 p.m. in the Council Chambers, City Hall, Santa Barbara, California.

The intention to alter the boundaries of the Business Improvement Area is set forth in Resolution No. 8288, dated September 21, 1976, entitled "A Resolution of the Council of the City of Santa Barbara Declaring Its Intention to Expand the Present Boundaries of the Business Improvement Area in the City of Santa Barbara Pursuant to the Parking and Business Improvement Area Law of 1965". A hearing on said amendment of the Business Improvement Area was held on October 5, 1976, at 2:00 p.m., in the Council Chambers, City Hall, Santa Barbara, California. (Ord. 3867, 1976; Ord. 3811, 1975.)

4.38.020 Definitions.

Words used in this chapter shall be defined as set forth in Chapter 5.04 of the Santa Barbara Municipal Code unless the context requires a different meaning. (Ord. 3811, 1975.)

4.38.030 Improvement Area.

The Business Improvement Area is the area within the area bounded by Anacapa, Chapala, Micheltorena and Ortega Streets and the businesses fronting the area bounded by said streets and businesses fronting on the intersections of said streets except that the area south of the centerline of Ortega Street is not included. (Ord. 3867, 1976; Ord. 3811, 1975.)

4.38.040 Businesses Subject to Tax.

Every business subject to Section 5.04.390, Classification "A", of the business tax is subject to and shall pay the tax established by this Chapter. (Ord. 3811, 1975.)

4.38.050 Tax Rates and Due Dates.

(a) Tax Rates.

(1) For businesses subject to Section 5.04.390, Classification "A" for the entire or a portion of the preceding calendar year, the annual tax imposed by this chapter shall be the same amount required to be paid during the preceding year by each such business pursuant to Section 5.04.390, Classification "A" of the Santa Barbara Municipal Code.

(2) For each new business, the tax for the remainder of the calendar year shall be the amount required to be paid under the business tax of Section 5.04.390, Classification "A", divided by 12 and multiplied by the number of months in said calendar year.

For purposes of this section, the number of months to be counted in determination of the tax for a portion of a calendar year shall be determined by counting as the first month the month during which the business permit is issued under Chapter 5.04 of the Santa Barbara Municipal Code.

(b) Due Dates. The annual tax imposed by this chapter for all businesses doing business during all or part of the preceding calendar year shall be due and delinquent after February 1 of each year. For all new businesses the tax for the remainder of the calendar year shall be due at the same time the annual business tax imposed by Chapter 5.04 is due. (Ord. 3811, 1975.)

4.38.060 Disputes, Late Payment Penalties and Collections.

Disputes as to amount shall be resolved, penalties for late payment shall be imposed and collection shall be effected at the same rates and utilizing the same methods established under Chapter 5.04 of the Santa Barbara Municipal Code. (Ord. 3811, 1975.)

4.38.070 Uses.

The funds collected pursuant to this tax shall be utilized for the following purposes which may include payment of costs to the City for administration of this chapter:

- (a) Decoration of any public place in the area.
- (b) Promotion of public events which are to take place in or on public places in the area.
- (c) Furnishing of music in any public place in the area.
- (d) The general promotion of retail trade activities in the area. (Ord. 3811, 1975.)

4.38.080 Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this chapter, or the application thereof to any person or circumstances, is for any reason held invalid, the validity of the remainder of this chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby. (Ord. 3811, 1975.)

4.38.090 Suspension of Collection of Taxes.

Except for collection of delinquent taxes under Chapter 4.38, collection of taxes under Chapter 4.38 shall be suspended after the ordinance creating the Downtown Parking and Business Improvement Area described in Chapter 4.39 is effective and for as long as charges can lawfully be collected in the Downtown Parking and Business Improvement Area. If the collection of such charges is enjoined or determined to be invalid by any court of competent jurisdiction, said suspension of taxes collected under Chapter 4.38 shall automatically terminate. (Ord. 4332, 1985).

Chapter 4.39

DOWNTOWN PARKING AND BUSINESS IMPROVEMENT AREA CHARGES

Sections:

4.39.010	Establishment of Area.	4.39.070	Uses.
4.39.020	Definitions.	4.39.080	Finding of Benefit.
4.39.030	Boundaries of Improvement Area.	4.39.090	Severability.
4.39.040	Businesses Subject to Charge.	4.39.100	Charges for 1985 Calendar Year.
4.39.050	Charges and Due Dates.	4.39.110	Subject to Amendments.
4.39.060	Disputes, Late Payment Penalties and Collections.		

4.39.010 Establishment of Area.

Pursuant to the provisions of the Parking and Business Improvement Area Law of 1979 (commencing with Section 36500 of the California Streets and Highways Code), a parking and business improvement area is hereby established which is herein referred to as the "Downtown Parking and Business Improvement Area" or "the Area." The intention to establish this Downtown Parking and Business Improvement Area is set forth in Resolution No. 85-017, dated February 5, 1985, entitled "A Resolution of the Council of the City of Santa Barbara Declaring Its Intention to Establish a Parking and Business Improvement Area in the City of Santa Barbara Pursuant to the Parking and Business Improvement Area Law of 1979 and to Suspend Collection of Taxes in the Existing Downtown Improvement Area."

A hearing on formation of the Downtown Parking and Business Improvement Area was held on March 12, 1985, at 2:00 p.m. in the Council Chamber, City Hall, Santa Barbara, California. (Ord. 4332, 1985.)

4.39.020 Definitions.

Words used in this Chapter shall be defined as set forth in Chapter 5.04 unless the context requires a different meaning. (Ord. 4332, 1985.)

4.39.030 Boundaries of Improvement Area.

The boundaries of the Downtown Parking and Business Improvement Area are identical to the boundaries established by Section 4.38.030. The Area is bounded by Anacapa, Chapala, Micheltorena and Ortega Streets and includes the businesses fronting on each street within or bounding the Area except the businesses located south of the centerline of Ortega Street. (Ord. 4332, 1985.)

4.39.040 Businesses Subject to Charge.

Every business subject to payment of the business tax under Chapter 5.04 is subject to and shall pay the charges established by this Chapter. (Ord. 4332, 1985.)

4.39.050 Charges and Due Dates.

Subject to Section 4.39.100, businesses located within the Area shall be subject to the following charges:

A. **BUSINESSES SUBJECT TO SECTION 5.04.420.** Every business, profession or occupation enumerated under Section 5.04.420 shall pay a charge equal to the greater of \$50.00 or 15% of the business tax imposed by Section 5.04.420 for the preceding year.

B. **OTHER BUSINESSES.** Except as otherwise provided herein, every business located within the Area shall pay a charge equal to 100% of the business tax imposed by Chapter 5.04 for the preceding year.

C. **MULTIPLE BUSINESSES AT SAME ADDRESS.** Subject to Subsections A and B above, when more than one (1) type of business is conducted at the same address, the owner shall pay a charge equal to the business tax imposed for the preceding year by Section 5.04.390 or, if no such business tax is imposed, a charge equal to the highest business tax imposed for the preceding year by Chapter 5.04 on a business conducted at the address.

D. **MULTIPLE BUSINESSES AT DIFFERENT ADDRESSES.** Subject to Subsections A and B above, when multiple business taxes are imposed by Chapter 5.04 on businesses operated by one (1) owner at different addresses, the owner shall pay a charge equal to the business tax imposed for the preceding year by Section 5.04.390 at each address, or, if no such tax is imposed, a charge equal to the highest tax imposed for the preceding year by Chapter 5.04 at each address.

E. **BUSINESSES ESTABLISHED AFTER CREATION OF AREA.** For each business established after the effective date of the ordinance creating the Downtown Parking and Business Improvement Area, the charge for the remainder of the calendar year shall be the amount set forth in Subsections A through D above, divided by twelve (12) and multiplied by the number of months remaining in said calendar year. For purposes of this Subsection, (i) a month is considered "remaining" if the business is established on or before the fifteenth day of that month; and (ii) a business is "established" on the date of issuance of the City business license or the date business commences, whichever occurs first.

F. **DUE DATES.** The annual charge imposed by this Chapter for all businesses doing business during all or part of the preceding calendar year shall be due and delinquent after February 1 of each year. For all new businesses, the charge for the remainder of the calendar year shall be due at the same time the annual business tax imposed by Chapter 5.04 is due. (Ord. 4332, 1985.)

4.39.060 Disputes, Late Payment Penalties and Collections.

Disputes as to amount shall be resolved, penalties for late payment shall be imposed and collection shall be effected at the same rates and utilizing the same methods established under Chapter 5.04. (Ord. 4332, 1985.)

4.39.070 Uses.

Charges so collected from this Area pursuant to this Chapter shall be used only for promotion of businesses in the Area (which may include payment of costs to the City for administration of this Chapter) by:

- A. Decoration of any public place in the Area.
- B. Promotion of public events which are to take place in or on public places in the Area.
- C. Furnishing of music in any public place in the Area.
- D. The general promotion of retail trade activities in the Area. (Ord. 4332, 1985.)

4.39.080 Finding of Benefit.

The City Council finds that the businesses lying within the Area will be benefitted by expenditure of funds raised by charges that are proposed to be levied in the Area. (Ord. 4332, 1985.)

4.39.090 Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Chapter, or the application thereof to any person or circumstance, is for any reason held invalid, the validity of the remainder of this Chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby. (Ord. 4332, 1985.)

4.39.100 Charges for 1985 Calendar Year.

A. **BUSINESSES REQUIRED TO PAY TAX UNDER CHAPTER 4.38.** A business that is required to pay the business improvement area tax pursuant to Chapter 4.38 will be exempted from payment of the charge for the 1985 calendar year. However, a business that has not paid all taxes required by Chapter 4.38 and all applicable penalties shall continue to be obligated to do so.

B. **BUSINESSES ESTABLISHED PRIOR TO THIS AREA, BUT NOT OBLIGATED TO PAY TAX PURSUANT TO CHAPTER 4.38.** A business that (i) is established (within the meaning of Subsection E of Section 4.39.050) prior to the date that the ordinance creating the Downtown Parking and Business Improvement Area is effective and (ii) is not required to pay the business improvement area tax pursuant to Chapter 4.38 shall pay charges set forth in Section 4.39.050, subject to a reduction for the portion of the calendar year that has elapsed. The charge for the remaining portion of the calendar year shall be the amount set forth in Section 4.39.050, divided by twelve (12) and multiplied by the number of months remaining in the calendar year. If the ordinance establishing the Downtown Parking and Business Improvement Area is effective on or before the fifteenth day of a month, that month shall be counted as a month remaining in the year. If said ordinance becomes effective after the fifteenth day of a month, that month shall not be counted as a month remaining in the year.

C. **BUSINESSES ESTABLISHED AFTER CREATION OF THIS AREA.** A business established (within the meaning of Subsection E of Section 4.39.050) after the effective date of the ordinance creating the Downtown Parking and Business Improvement Area shall pay the charges set forth in Section 4.39.050. (Ord. 4332, 1985.)

4.39.110 Subject to Amendments.

Businesses located in the Downtown Parking and Business Improvement Area shall be subject to any amendments to Part 6 (commencing with Section 36500) of Division 18 of the California Streets and Highways Code. (Ord. 4332, 1985.)

Chapter 4.40
REVENUE BONDS

Sections:

4.40.010 Issuance of Revenue Bonds.

4.40.020 Procedure.

4.40.010 Issuance of Revenue Bonds.

The City Council may issue and sell bonds which are payable only and solely out of such revenues, other than taxes, as may be specified in such bonds and produced or contributed to by the improvement financed by the bonds. (Ord. 3545 §1(part), 1972.)

4.40.020 Procedure.

The provisions of the Revenue Bond Law of 1941, being Chapter 6, commencing with Section 54300, Part 1, Division 2, Title 5, of the Government Code of the State of California, as now or hereafter amended, shall apply, as shall any other provision of California Law, now or hereafter existing, which is applicable, or may be applied, to bonds issued or to be issued under the Law. No such bonds shall be issued without the assent of a majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the qualified electors of the City, in accordance with Section 1210 of the Santa Barbara City Charter and the Revenue Bond Law of 1941. (Ord. 4839, 1993; Ord. 3545 §1(part), 1972.)

Chapter 4.42

OLD TOWN BUSINESS IMPROVEMENT AREA TAX

Sections:

4.42.010	Title and Establishment.	4.42.060	Disputes, Late Payment Penalties and Collections.
4.42.020	Definitions.	4.42.070	Uses.
4.42.030	Improvement Area.	4.42.080	Severability.
4.42.040	Businesses Subject to Tax.	4.42.090	Suspension of Collection of Taxes.
4.42.050	Tax Rates and Due Dates.		

4.42.010 Title and Establishment.

The tax imposed by this chapter shall be known as the "Old Town Business Improvement Area Tax". Pursuant to the provisions of Part 5 (commencing with Section 36000) of Division 18 of the Streets and Highways Code of the State of California, a business improvement area is hereby established. The intention to establish the improvement area is set forth in Resolution No. 8277, dated September 7, 1976, entitled "A Resolution of the Council of the City of Santa Barbara Declaring Its Intention to Establish a Second Business Improvement Area in the City of Santa Barbara Pursuant to the Parking and Business Improvement Area Law of 1965". A hearing on formation of said Business Improvement Area was held on October 5, 1976, at 2:00 p.m. in the Council Chambers, City Hall, Santa Barbara, California. (Ord. 3868 §1, 1976.)

4.42.020 Definitions.

Words used in this chapter shall be defined as set forth in Chapter 5.04 of the Santa Barbara Municipal Code unless the context requires a different meaning. (Ord. 3868 §1, 1976.)

4.42.030 Improvement Area.

The Business Improvement Area is the area within the area bounded by Anacapa, Chapala, Gutierrez and Ortega Streets and businesses fronting on the area bounded by said streets and businesses fronting the intersections of said streets, except that the area north of the centerline of Ortega Street is not included. (Ord. 3868 §1, 1976.)

4.42.040 Businesses Subject to Tax.

Every business subject to a business tax under Chapter 5.04 of the Santa Barbara Municipal Code, except those subject to the business tax imposed by §5.04.400, and having a place of business within the area is subject to and shall pay the tax established by this chapter. (Ord. 3941 §1, 1978; Ord. 3868 §1, 1976.)

4.42.050 Tax Rates and Due Dates.

(a) Tax Rates.

1. Businesses located within the Business Improvement Area delineated in §4.42.030 shall be subject to the following business improvement area tax:

- a. Every business located on State Street shall pay a tax equal to 100% of the business tax imposed by Chapter 5.04 of the Municipal Code, not to exceed \$125.00 per year.
- b. Every business not located on State Street shall pay a tax equal to 75% of the business tax imposed in Chapter 5.04 of the Municipal Code, not to exceed \$125.00 per year.
- c. Subject to subsections a. and b. above, when more than one (1) type of business is conducted at the same address, the owner shall pay a tax equal to the business tax imposed by §5.04.390 of the Municipal Code, or, if no such tax is imposed, a tax equal to the highest business tax imposed by Chapter 5.04 on a business conducted at the address, not to exceed \$125.00 per year.
- d. Subject to subsections a. and b. above, when multiple business taxes are imposed by Chapter 5.04 on businesses operated by one (1) owner at different addresses, the owner shall pay a tax equal to the business tax imposed by §5.04.390 at each address, or, if no such tax is imposed, a tax equal to the highest tax imposed by Chapter 5.04 at each address, not to exceed \$125.00 per year at each address.

2. For each new business, the tax for the remainder of the calendar year shall be the amount required to be paid under Subsection 1. of this section divided by 12 and multiplied by the number of months remaining in said calendar year.

3. For purposes of Subsection 1. of this section, the number of months to be counted to determine the tax for a portion of a calendar year shall be determined by counting as the first month the month during which the business permit is issued under Chapter 5.04 of the Santa Barbara Municipal Code. (Ord. 3941 §2, 1978.)

(b) Due Dates. The annual tax imposed by this chapter for all businesses doing business during all or part of the preceding calendar year shall be due and delinquent after February 1 of each year. For all new businesses the tax for the remainder of the calendar year shall be due at the same time the annual tax imposed by Chapter 5.04 is due. (Ord. 3941, 1978; Ord. 3868 §1, 1976.)

4.42.060 Disputes, Late Payment Penalties and Collections.

Disputes as to amount shall be resolved, penalties for late payment shall be imposed and collection shall be effected at the same rates and utilizing the same methods established under Chapter 5.04 of the Santa Barbara Municipal Code. (Ord. 3868 §1, 1976.)

4.42.070 Uses.

The funds collected pursuant to this tax shall be utilized for the following purposes which may include payment of costs to the City for administration of this chapter:

- (a) Decoration of any public place in the area.
- (b) Promotion of public events which are to take place in or on public places in the area.
- (c) Furnishing of music in any public place in the area.
- (d) The general promotion of retail trade activities in the area. (Ord. 3868 §1, 1976.)

4.42.080 Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this chapter, or the application thereof to any person or circumstances, is for any reason held invalid, the validity of the remainder of this chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby. (Ord. 3868 §1, 1976.)

4.42.090 Suspension of Collection of Taxes.

Except for collection of delinquent taxes under Chapter 4.42, collection of taxes under Chapter 4.42 shall be suspended after the ordinance first enacting Chapter 4.43 is effective and for as long as charges can lawfully be collected in the Old Town Parking and Business Improvement Area pursuant to Chapter 4.43. If the collection of such charges is enjoined or determined to be invalid by any court of competent jurisdiction, said suspension of taxes collected under Chapter 4.42 shall automatically terminate. (Ord. 4394, 1986.)

Chapter 4.43

OLD TOWN PARKING AND BUSINESS IMPROVEMENT AREA CHARGES

Sections:

4.43.010	Establishment of Area.	4.43.070	Uses.
4.43.020	Definitions.	4.43.080	Finding of Benefit.
4.43.030	Boundaries of Improvement Area.	4.43.090	Severability.
4.43.040	Businesses Subject to Charges.	4.43.100	Charges for 1985 Calendar Year.
4.43.050	Charges and Due Dates.	4.43.110	Subject to Amendments.
4.43.060	Disputes, Late Payment Penalties and Collections.		

4.43.010 Establishment of Area.

Pursuant to the provisions of the Parking and Business Improvement Area Law of 1979 (commencing with Section 36500 of the California Streets and Highways Code), a parking and business improvement area is hereby established which is herein referred to as the "Old Town Parking and Business Improvement Area" or "the Area." The intention to establish this Old Town Parking and Business Improvement Area is set forth in Resolution No. 86-081, dated April 22, 1986, entitled "A Resolution of the Council of the City of Santa Barbara Declaring Its Intention to Establish a Parking and Business Improvement Area in the Old Town Area of the City of Santa Barbara Pursuant to the Parking and Business Improvement Area Law of 1979 and to Suspend Collection of Taxes in the Existing Old Town Improvement Area."

A hearing on formation of the Old Town Parking and Business Improvement Area was held on May 13, 1986, at 2:00 p.m. in the Council Chamber, City Hall, Santa Barbara, California. (Ord. 4394, 1986.)

4.43.020 Definitions.

Words used in this Chapter shall be defined as set forth in Chapter 5.04 unless the context requires a different meaning. (Ord. 4394, 1986.)

4.43.030 Boundaries of Improvement Area.

The Old Town Parking and Business Improvement Area ("Area") is that area which is bounded by Gutierrez Street, Ortega Street, Chapala Street and Anacapa Street. The Area includes all parcels fronting on each street within or bounding the Area (including parcels fronting or situated on the intersections of said streets), except parcels located north of the center line of Ortega Street. (Ord. 4394, 1986.)

4.43.040 Businesses Subject to Charges.

Every business subject to payment of the business tax under Chapter 5.04 and located on a parcel within the Area is subject to and shall pay the charges established by this Chapter. A charge shall not be imposed on a business which develops, sells, acquires, leases, or manages real property located in the Area (or which act as an agent for any such activity) unless the business has a business office located within the Area. (Ord. 4394, 1986.)

4.43.050 Charges and Due Dates.

Subject to Section 4.43.100, businesses located within the Area shall be subject to the following charges:

A. **BUSINESSES LOCATED ON STATE STREET.** Every business fronting or with an address on State Street shall pay a charge equal to 100% of the business tax imposed by Chapter 5.04 of the Municipal Code.

B. **BUSINESSES NOT LOCATED ON STATE STREET.** Every business not fronting or with an address on State Street shall pay a charge equal to 75% of the business tax imposed by Chapter 5.04 of the Municipal Code.

C. **AUTOMOBILE SALES AND SERVICE BUSINESSES.** Notwithstanding Subsections A and B above, businesses classified as automobile sales and service (Classification "B" of Section 5.04.390) shall pay a maximum charge of \$600.00 per taxable year.

D. OTHER BUSINESSES. Manufacturing, wholesaling and processing businesses as defined in Section 5.04.400, all businesses and professions enumerated in Section 4.04.420 and all persons conducting or carrying on a business as a real estate broker and/or agent as defined in Section 5.04.430 shall pay a charge equal to the minimum charge in effect during the taxable year as hereinafter provided. Further, businesses that are designated by CalTrans for relocation shall also pay the minimum charge for the current taxable year as hereinafter provided.

E. MINIMUM CHARGE. Every business subject to this ordinance shall pay a minimum charge of \$60.00 in 1986, \$75.00 in 1988, and \$100.00 in 1990. The minimum charge from and after 1991 shall remain at \$100.00.

F. MULTIPLE BUSINESSES AT SAME ADDRESS. Subject to Subsections A and B above, when more than one (1) type of business is conducted at the same address, the owner shall pay a charge equal to the business tax imposed for the preceding year by Section 5.04.390 of the Municipal Code, or, if no such business tax is imposed, a charge equal to the highest business tax imposed by Chapter 5.04 on a business conducted at the address.

G. MULTIPLE BUSINESSES AT DIFFERENT ADDRESSES. Subject to Subsections A and B above, when multiple business taxes are imposed by Chapter 5.04 on businesses operated by one (1) owner at different addresses, the owner shall pay a charge equal to the business tax imposed for the preceding year by Section 5.04.390 at each address, or, if no such business tax is imposed, a charge equal to the highest tax imposed for the preceding year by Chapter 5.04 at each address.

H. BUSINESSES ESTABLISHED AFTER CREATION OF AREA. For each business established after the effective date of the ordinance first enacting this Chapter, the charge for the remainder of the calendar year shall be the amount set forth in Subsections A through G above, divided by twelve (12) and multiplied by the number of months remaining in said calendar year. For purposes of this Subsection: (i) a month is considered "remaining" if the business is established on or before the fifteenth day of that month; and (ii) a business is "established" on the date of issuance of the City business license or the date business commences, whichever occurs first.

I. DUE DATES. The annual charge imposed by this Chapter for all businesses doing business during all or part of the preceding calendar year shall be due at the same time the business tax imposed by Chapter 5.04 of the Municipal Code is due and shall be delinquent after February 1 of each year. For all new businesses, the charge for the remainder of the calendar year shall be due at the same time the annual business tax imposed by Chapter 5.04 is due. (Ord. 4394, 1986)

4.43.060 Disputes, Late Payment Penalties and Collections.

Disputes as to amount shall be resolved, penalties for late payment shall be imposed and collection shall be effected at the same rates and utilizing the methods established under Chapter 5.04. (Ord. 4394, 1986.)

4.43.070 Uses.

Charges collected from this Area pursuant to this Chapter shall be used only for promotion of businesses in the Area (which may include payment of costs to the City for administration of this Chapter) by:

- A. Decoration of any public place in the Area.
- B. Promotion of public events which are to take place in or on public places in the Area.
- C. Furnishing of music in any public place in the Area.
- D. The general promotion of retail trade activities in the Area. (Ord. 4394, 1986.)

4.43.080 Finding of Benefit.

The City Council finds that the businesses located within the Area will be benefitted by expenditure of funds raised by charges that are proposed to be levied in the Area. (Ord. 4394, 1986.)

4.43.090 Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Chapter, or the application thereof to any person or circumstance, is for any reason held invalid, the validity of the remainder of this Chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby. (Ord. 4394, 1986.)

4.43.100 Charges for 1985 Calendar Year.

A. **BUSINESSES REQUIRED TO PAY TAX UNDER CHAPTER 4.42.** A business that is required to pay the Business Improvement Area Tax pursuant to Chapter 4.42 will be exempted from payment of the charge imposed by this Chapter for the 1985 calendar year. However, a business that has not paid all taxes required by Chapter 4.42 and all applicable penalties shall continue to be obligated to do so.

B. **BUSINESSES ESTABLISHED PRIOR TO THIS AREA, BUT NOT OBLIGATED TO PAY TAX PURSUANT TO CHAPTER 4.42.** A business that (i) is established (within the meaning of Subsection E of Section 4.43.050) prior to the date that the ordinance first enacting this Chapter is effective and (ii) is not required to pay the Business Improvement Area Tax pursuant to Chapter 4.42, shall pay charges set forth in Section 4.43.050, subject to a pro rata reduction for the portion of the calendar year that has elapsed prior to that effective date. The charge for the remaining portion of the calendar year shall be the amount set forth in Section 4.43.050, divided by twelve (12) and multiplied by the number of months remaining in the calendar year after the effective date. If the ordinance enacting this Chapter is effective on or before the fifteenth day of a month, that month shall be counted as a month remaining in the year. If the ordinance becomes effective after the fifteenth day of a month, that month shall not be counted as a month remaining in the year.

C. **BUSINESSES ESTABLISHED AFTER CREATION OF THIS AREA.** A business established (within the meaning of Subsection E of Section 4.43.050) after the effective date of the ordinance first enacting this Chapter shall pay the charges set forth in Section 4.43.050. (Ord. 4394, 1986.)

4.43.110 Subject to Amendments.

Businesses located in the Old Town Parking and Business Improvement Area shall be subject to any amendments to Part 6 (commencing with Section 36500) of Division 18 of the California Streets and Highways Code. (Ord. 4394, 1986.)

Chapter 4.52

PURCHASING

Sections:

4.52.010	System Adopted - Purpose.	4.52.100	Central Stores.
4.52.020	Definitions.	4.52.110	Information Technology Purchases.
4.52.030	Purchasing Agent - Duties.	4.52.120	Contract Splitting Prohibited.
4.52.040	Estimates of Requirements.	4.52.130	Surplus Personal Property.
4.52.050	Contracting Authority.	4.52.140	Cooperative Purchasing.
4.52.055	Exceptions to Competitive Bidding.	4.52.150	Future Expenditures.
4.52.060	Contracts Up to \$75,000.	4.52.160	Public Works Contracts.
4.52.070	Formal Contract Procedures (Purchases Greater than \$75,000).	4.52.165	Public Works Contracts.
4.52.080	Emergency Purchases.	4.52.170	Library Books and Periodicals.
4.52.090	Inspection and Testing.	4.52.180	Professional Services.
		4.52.190	Debarment.

4.52.010 System Adopted - Purpose.

In order to establish efficient procedures for the purchase of equipment, supplies, and services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases, a purchasing system is adopted. To the greatest extent practicable, the City shall endeavor to develop purchasing specifications that will result in the purchase of equipment, supplies, and services that are environmentally preferred. Competitive bidding for the purchase of equipment, supplies, and services is preferred as a matter of City policy and good purchasing practice. Even when competitive bids are not required by this Chapter, competitive proposals or bids should be obtained if reasonably practicable and compatible with the City's interests. (Ord. 5494, 2009; Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.020 Definitions.

The following words and phrases shall have the following meaning and construction for purposes of this chapter.

A. **ENVIRONMENTALLY PREFERRED PURCHASES.** A manner of purchasing equipment, supplies, and services that results in less harm to the natural environment. Environmentally preferred purchases involve the purchase of equipment, supplies, and services in a manner that uses less harmful materials, employs recycled or recovered materials (where appropriate and available), and utilizes techniques intended to result in less impact on the environment than other available methods.

B. **EMERGENCY PURCHASE.** A purchase made to address a situation that creates an immediate and serious need for equipment, supplies, or services which cannot be met through normal purchasing procedures and where the lack of such equipment, supplies, or services would seriously threaten the functioning of City government, the preservation of property, or the health or safety of any person.

C. **WITHIN THE BUDGET APPROVED BY THE CITY COUNCIL.** Purchases that fall within the annual financial budget adopted by the City Council for the Department against whose account the purchase will be applied. A particular purchase need not be a specific line item of the Department's budget in order to be considered included within the budget approved by the City Council.

D. **INFORMATION TECHNOLOGY.** Includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications that include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

E. **MAINTENANCE AND REPAIR.** The routine, recurring, or usual work for the restoration or preservation of the condition of an existing facility, structure, or equipment, as opposed to the purchase of a new or replacement facility, structure, or equipment. If a question arises as to the proper characterization of a purchase as maintenance and repair or a public work, the Purchasing Agent shall determine in writing whether the primary purpose of the purchase is to restore or preserve the condition of an existing facility, structure, or equipment or to obtain a new or replacement facility, structure, or equipment.

F. **PERSONAL PROPERTY.** All property other than real estate, including, but not limited to, equipment, supplies, and materials.

G. **PROFESSIONAL SERVICES.** Services that require specialty training, education, or experience, including, but not limited to, financial, economic, accounting, engineering, legal, or administrative matters.

H. **PURCHASE.** To obtain equipment, supplies, or services in exchange for money or its equivalent. For purposes of this Chapter, the term purchase shall also include the acquisition of equipment or supplies by lease.

I. **PURCHASING AGENT.** The general services manager of the City of Santa Barbara.

J. **REVERSE AUCTION.** A process where the City announces its need for equipment, supplies, or services on the Internet, or some other manner, and suppliers bid against one another in a real-time, open, and interactive bidding environment to supply the City with required equipment, supplies, or services.

K. **SERVICES INVOLVING PECULIAR ABILITY.** Services that typically require artistic or creative skill and advanced or specialized training or experience. For purposes of this Chapter, the construction trades are not services involving peculiar ability. (Ord. 5494, 2009.)

4.52.030 Purchasing Agent - Duties.

The Purchasing Agent shall be under the direction, supervision, and control of the Director of Finance. The Purchasing Agent shall:

A. Negotiate, purchase, and contract for equipment, supplies (other than library books and library periodicals), routine laboratory tests, nonprofessional services, or services not involving peculiar ability required by any office, department, or agency of the City in accordance with purchasing procedures prescribed by this chapter, and such other rules and regulations as shall be prescribed by the City Council.

B. Act to procure for the City the needed quality in equipment, supplies, routine laboratory tests, nonprofessional services, or services not involving peculiar ability at least expense to the City.

C. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.

D. Prepare and recommend to the City Council rules governing the purchase of supplies, services and equipment for the City.

E. Stay informed of current developments in the field of purchasing, prices, market conditions and new products.

F. Prescribe and maintain such purchasing forms as are reasonably necessary to the operation of this chapter and other rules and regulations.

G. Maintain a bidders' list, vendors' catalog file and records needed for the efficient operation of the Purchasing Division. (Ord. 5494, 2009; Ord. 3848 §1, 1976; Ord. 3832 §1, 1976; Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.040 Estimates of Requirements.

All departments shall file detailed estimates of their requirements for supplies and equipment in such manner, at such time, and for such future periods as the Purchasing Agent shall prescribe. (Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.050 Contracting Authority.

A. **COUNCIL AUTHORIZATION.** Pursuant to Section 518 of the City Charter, the City Council may, by ordinance or resolution, authorize the City Administrator or other officer to bind the City for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council.

B. **EXERCISE OF AUTHORITY.** To the extent the City Council grants written purchasing authority to the City Administrator or another officer, the City Administrator or such other officer shall exercise such authority in accordance with the procedures specified in this Chapter or as otherwise specified in the ordinance or resolution granting such authority.

C. **DELEGATION OF AUTHORITY.** To the extent the City Council grants purchasing authority to the City Administrator, the City Administrator may delegate such authority to a subordinate in a manner that does not conflict with Section 518 of the City Charter, the provisions of any applicable City ordinance, or the provisions of the Council resolution or ordinance granting the purchasing authority to the City Administrator. (Ord. 5494, 2009.)

4.52.055 Exceptions to Competitive Bidding.

The following purchases of equipment, supplies, and services are exempt from the competitive bidding requirements specified in Sections 4.52.060 or 4.52.070 of this Code to the extent such purchases are within the budget approved by the City Council. The City Administrator is authorized to negotiate and contract for such equipment, supplies, and services without complying with competitive bidding subject to the conditions as specified below:

A. Purchases of advertising services (print, television, radio, internet, etc.) upon a showing that the proposed services are a cost effective means of reaching the targeted audience.

B. Software license renewals where the software has been shown to have continuing value to the operation of the City organization.

C. Housing and furniture rental for police department cadets. (Ord. 5716, 2015.)

4.52.060 Contracts Up to \$75,000.

A. **REQUISITIONS.** All departments of the City shall submit requests for equipment, supplies (other than library books and library periodicals), routine laboratory tests, nonprofessional services, or services not involving peculiar ability to the Purchasing Agent by standard requisition request forms.

B. **BIDDING PROCEDURE.** Purchases of equipment, supplies (other than library books and library periodicals), routine laboratory tests, nonprofessional services, or services not involving peculiar ability, of a value of up to \$75,000, may be made by the Purchasing Agent in the open market pursuant to the bidding procedures described herein.

1. **Purchases of up to \$7,500.** Purchases of goods or services of a value up to \$7,500 may be made without competitive bidding.

2. **Sole Source Purchases.** Where only one source is available for the goods or services, the purchase may be made without competitive bidding.

3. **Purchases over \$7,500 and up to \$75,000.** Purchases of goods or services of a value over \$7,500 and up to \$75,000 shall be bid in the following manner:

a. **Minimum Number of Quotations.** Purchases shall whenever possible be based on at least three (3) quotations, and shall be awarded to the person submitting the lowest responsible quotation.

b. **Notice Inviting Quotations.** The Purchasing Agent shall solicit quotations by written requests to prospective vendors or by telephone.

c. **Written quotations shall be submitted to the Purchasing Agent who shall keep a record of all open market orders and quotes for a period of one (1) year after the submission of quotes or the placing of orders.**

C. **CONFIRMATION OF VERBAL QUOTATIONS.** For all purchases made pursuant to this section, verbal quotations over \$7,500 require written confirmation.

D. **WRITTEN CONTRACTS.** All purchases made pursuant to this section shall be made by purchase order or other form approved by the City Administrator and the City Attorney. The Purchasing Agent is authorized to execute such contracts on behalf of the City.

E. **ENCUMBRANCE OF FUNDS.** Except in cases of emergency, the Purchasing Agent shall not issue any purchase order for equipment, supplies, or services for which there is an insufficient appropriation in the budgetary account against which said purchase is to be charged. (Ord. 5716, 2015; Ord. 5494, 2009; Ord. 5371, 2005; Ord. 4022, 1980; Ord. 3848, 1976; Ord. 3832, 1976; Ord. 3760 §2, 1975.)

4.52.070 Formal Contract Procedures (Purchases Greater than \$75,000).

Except as otherwise provided herein, purchases of supplies (other than library books and library periodicals), nonprofessional services, services not involving peculiar ability, and equipment, of a value greater than seventy-five thousand dollars (\$75,000.00), shall be by written contract with the lowest responsible bidder pursuant to the following procedures:

A. **REQUISITION.** All departments of the City shall submit requests for equipment, supplies (other than library books and library periodicals), and nonprofessional services or services not involving peculiar ability to the Purchasing Agent by standard City requisition forms.

B. **NOTICE INVITING BIDS.** The Purchasing Agent shall issue a notice inviting bids that includes a general description of the articles to be purchased or the services sought, states where the bid forms and specifications may be secured, and announces the time and place for opening bids.

1. **Published Notice.** Notices inviting bids shall be published at least ten (10) working days before the date of opening of bids. Notices shall be published at least once in a newspaper of general circulation, published in the City of Santa Barbara.

2. **Bidders' List.** The Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers whose names are on the City's bidders' list or who have requested their names to be added thereto.

C. **BIDDERS' SECURITY.** When deemed necessary by the Purchasing Agent, bidders' security may be required. Bidders shall be entitled to a return of bid security upon execution of the contract or upon the re-advertisement for bids, provided that the successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten (10) days after notice of contract has been deposited in the United States mail. The City Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the City Council awards the contract to the next lowest responsible bidder, the bidder first awarded the contract shall forfeit only the portion of his security which is equal to the difference between his bid and the bid of the next lowest responsible bidder. If the next lowest responsible bidder is awarded the contract, he shall forfeit his bid security if he fails or refuses to execute the contract.

D. **BID OPENING PROCEDURE.** Bids may be submitted in physical form or electronically, as specified in the notice inviting bids. Physical bids shall be submitted to the Purchasing Agent in a sealed envelope and shall be identified as "bid" on the envelope. Bids submitted electronically shall be identified as "bid" in the subject line of the e-mail or by other conspicuous method. Bids shall be opened at a location open to the public at the time and place stated on the notice inviting bids or as may otherwise be announced to all bidders. A tabulation of all bids received shall be open for public inspection during regular City business hours for a period of not less than thirty (30) calendar days after the bid opening.

E. **REJECTION OF BIDS.** In its discretion, the City Council may reject any and all bids presented and re-advertise for bids pursuant to the procedure described herein. In cases where the Purchasing Agent is authorized to award a contract, the Purchasing Agent may, in his or her discretion, reject any and all bids presented and re-advertise for bids pursuant to the procedure described herein.

F. **AWARD OF CONTRACTS.** Contracts shall be awarded by the City Council to the lowest responsible bidder who submits a bid responsive to the specifications except as otherwise provided herein.

G. **AWARD OF CONTRACTS BY PURCHASING AGENT.** The Purchasing Agent is authorized to award contracts to the lowest responsible bidder when the City Council has approved a Departmental budget that includes funds specifically for the purchase of the item(s) and the amount of the award is not more than the budgeted amount.

H. **TIE BIDS.** If two (2) or more bids received are for the same total amount or unit price, quality, service and delivery being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council may in its discretion accept the one (1) it chooses or accept the lowest bona fide offer made by and after negotiation with the bidders who were tied at the time of the bid opening.

I. **NO BIDS RECEIVED.** If no bids are received within ten (10) days of the publication of the notice inviting bids or such other time specified in the notice inviting bids for the receipt of bids, the Purchasing Agent may either publish a new notice inviting bids or solicit bids without further publication.

J. **PERFORMANCE SECURITY.** The Purchasing Agent shall have the authority to require a performance security before entering into a contract in such amount as it shall find reasonably necessary to protect the best interests of the City. If the Purchasing Agent requires a performance security, the form and amount of the security shall be described in the terms, conditions or general provisions of bid documents.

K. **SOLE SOURCE PURCHASES.** Purchases of goods or services which can be obtained from only one (1) source may be made by the Purchasing Agent without advertising and after a determination by the City Council that the goods or services are only available from one source and approval of the purchase by the City Council.

L. **BEST INTEREST WAIVER.** The City Council may authorize purchase of equipment, supplies (other than library books and library periodicals), and nonprofessional services or services not involving peculiar ability without complying with the above procedures when, in the opinion of the Council, compliance with the procedure is not in the best interest of the City.

M. **ENCUMBRANCE OF FUNDS.** Except in cases of emergency, the Purchasing Agent shall not issue any purchase order for equipment, supplies, or services for which there is an insufficient appropriation in the budgetary account against which said purchase is to be charged. (Ord. 5716, 2015; Ord. 5494, 2009; Ord. 5371, 2005; Ord. 4022, 1979; Ord. 3832 §1, 1976; Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.080 Emergency Purchases.

An emergency purchase of any equipment, supplies, or services shall be made in accordance with the following procedures:

A. **DECLARATION OF NEED TO MAKE AN EMERGENCY PURCHASE.** The City Administrator or a City department head must declare the need to make an emergency purchase in writing. The declaration shall specify the reasons why an emergency purchase of equipment, supplies, or services is necessary.

B. **SCOPE OF AUTHORITY.** When the need to make an emergency purchase is declared, the City Administrator or the department head declaring the need to make an emergency purchase may purchase any equipment, supplies, or services needed to address the emergency. Emergency purchases are only allowed as necessary to address an immediate need. Even when normal purchasing procedures are not followed for reasons relating to the emergency, competitive bidding shall be used to the greatest extent practicable under the circumstances.

C. **DOCUMENTATION.** All emergency purchases shall be documented in writing.

D. **ENCUMBRANCE OF FUNDS.** When emergency purchases are requested of equipment, supplies, or services for which no funds have been encumbered, the emergency requisition shall so state and the interested department head shall initiate a request for fund transfer within four (4) hours after the start of the next regular work day.

E. **REPORT TO CITY COUNCIL.** Any time the value of emergency purchases made without compliance with normal purchasing procedures exceeds \$35,000 in the aggregate for a single emergency, a report shall be made to the City Council within thirty (30) days of the declaration of the need for an emergency purchase. (Ord. 5716, 2015; Ord. 5494, 2009.)

4.52.090 Inspection and Testing.

The Purchasing Agent may inspect supplies and equipment delivered to determine their conformance with the specifications set forth in the order or contract. The Purchasing Agent shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications. (Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.100 Central Stores.

The Purchasing Agent is responsible for the City storage control program. Under direction of the Purchasing Agent, the City Stores Manager is responsible for the custody of and accounting for the supplies. This includes the maintenance of a perpetual inventory record for each item carried in stock and making quantity checks at frequent intervals to verify the ledger count and value. The City Stores Manager is to exercise full control and reporting of all materials received, withdrawn, or returned to stock. (Ord. 5494, 2009; Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.110 Information Technology Purchases.

The City recognizes that purchasing information technology on the basis of lowest purchase price alone may not always serve the best interests of the City. Therefore, the Purchasing Agent is hereby authorized to purchase information technology, within the budget approved by the City Council, on a "best value basis." In determining the best value for the City, the Purchasing Agent may consider the following factors:

- A. The purchase price or cost;
- B. The quality of the vendor's goods or services;
- C. The extent to which the vendor's goods or services meet the City's needs;
- D. The total long-term cost to the City of the good or service;
- D. The reputation of the vendor and the vendor's goods or services;
- E. The vendor's past relationship with the City;
- F. The impact of the proposed purchase on the City's ability to comply with laws relating to the procurement of goods or services from persons with disabilities;
- G. The impact of the proposed purchase on the City's ability to comply with laws relating to the procurement of goods or services from historically underutilized businesses; and
- H. Any relevant criteria specifically listed in the request for proposals or bids.

The preceding list of factors is not listed in order of priority and not all factors will be relevant to all purchases. Unless the request for proposals or bids assigns a particular weight to one factor or another, the Purchasing Agent may assign priority of the factors as appropriate for the individual purchase based on the information available at the time of the purchase with the goal of obtaining the optimum combination of economy, quality, and effectiveness that is the result of fair, efficient, and practical procurement decision-making. (Ord. 5716, 2015.)

4.52.120 Contract Splitting Prohibited.

It is unlawful to split or separate any purchase into smaller increments for the purpose of evading the provisions of the Charter or this Chapter requiring advertising and competitive bidding. (Ord. 5494, 2009; Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.130 Surplus Personal Property.

All City departments shall submit to the Purchasing Agent, at such times and in such forms as the Agent shall prescribe, reports showing all supplies, equipment or personal property of any nature which are no longer used or which have become obsolete or worn out. The Purchasing Agent shall have the authority to exchange or trade on new supplies and equipment, or to sell, all supplies and equipment which cannot be used by any department or which have become unsuitable for City use. The Purchasing Agent shall also have the authority to make transfers between departments of any usable surplus supplies or equipment. The Purchasing Agent, upon obtaining the specific written approval of the City Finance Director, may, without published notice of the intended sale or competitive bidding, sell items of surplus personal property to: 1. any interested party if the value of the item does not exceed \$500, or 2. any governmental entity as long as the value of the item does not exceed \$10,000. (Ord. 5716, 2015; Ord. 5494, 2009; Ord. 3760 §2, 1975; Ord. 3306 §2, 1968.)

4.52.140 Cooperative Purchasing.

A. **COOPERATIVE PURCHASING AGREEMENTS.** Nothing contained in this chapter shall prohibit the participation by the City of Santa Barbara in any voluntary cooperative purchasing agreement, agreements, or programs entered into between the City of Santa Barbara and any local, state, or federal government, or association of governmental agencies within the United States which is authorized by state or federal law or regulations.

B. **SURROGATE BIDDING.** Nothing contained in this chapter shall prohibit the participation by the City of Santa Barbara in a surrogate bidding process where the City purchases equipment, supplies, or services at the same price as a contract awarded by another local, state, or federal government, or association of governmental agencies within the United States following a competitive bidding process that substantially conforms to the City's purchasing procedures.

C. **CALIFORNIA MULTIPLE AWARD SCHEDULE CONTRACTS AND LEVERAGE PROCUREMENT AGREEMENTS.** Nothing contained in this chapter shall prohibit the participation by the City of Santa Barbara in any purchase under a California Multiple Award Schedule Contract or Leverage Procurement Agreement.

D. **AUTHORITY TO ACT.** The Purchasing Agent is hereby empowered and authorized to act under the provisions of this chapter, to procure for the City supplies and equipment in conjunction with such voluntary cooperative purchasing agreement, surrogate bidding process, California Multiple Award Schedule Contract, or California Leverage Procurement Agreement to the extent such purchases are within the budget approved by the City Council. Sections 4.52.060 and 4.52.070 of this chapter shall not apply to the purchase of supplies or equipment pursuant to any voluntary cooperative purchasing agreement, surrogate bidding process, California Multiple Award Schedule Contract, or California Leverage Procurement Agreement entered into under the provisions of this section. All formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement, the surrogate bid, California Multiple Award Schedule Contract, or California Leverage Procurement Agreement. (Ord. 5716, 2015; Ord. 5494, 2009; Ord. 3760 §2, 1975; Ord. 3620 §1, 1974.)

4.52.150 Future Expenditures.

No contract to be executed in a future fiscal year or years for purchases of goods or services as described in this chapter shall be valid unless appropriations for such purchase shall have been made in the year in which the contract was entered into. (Ord. 5494, 2009; Ord. 3760 §2, 1975.)

4.52.160 Public Works Contracts.

A. **COMPLIANCE WITH THE CHARTER.** Bidding and advertising and award of contracts for public works, excluding maintenance and repair, shall be as required by Section 519 of the City Charter.

B. **PREVAILING WAGES REQUIRED IN COMPLIANCE WITH SB 7.** The state prevailing wage law requires contractors on public works projects to be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed. Under California Constitution Article XI, Section 5, the laws of chartered cities supersede state law with respect to municipal affairs of the city. The City of Santa Barbara is a chartered city duly organized and validly existing under the laws of the State of California, and thus the city may exempt itself from prevailing wage requirements. California Senate Bill No. 7 (“SB 7”), approved October 13, 2013, provides that the state has limited financial resources and resolves only to extend financial assistance to construction projects of those chartered cities that require compliance with the prevailing wage law on all their municipal construction projects. Effective January 1, 2015, unless the contract was advertised for bid prior to that date, chartered cities are additionally disqualified from receiving financial assistance under SB 7 if the city has awarded, within the prior two (2) years, a public works contract without requiring the contractor to comply with prevailing wage requirements. Chartered cities that have charter provisions exempting city projects from prevailing wage requirements may adopt a local prevailing wage ordinance with requirements equal to or greater than state prevailing wage law in order to avoid disqualification.

For at least the last 25 years, the City has generally required prevailing wages to be paid on capital improvement projects. Compliance with SB 7, however, requires the adoption of an ordinance and the payment of prevailing wages beyond capital improvement projects to include maintenance and repair work, as described in the Labor Code. Notwithstanding the City’s constitutional right to exempt locally funded projects from prevailing wage, the City Council finds that the City’s financial interests are best served by complying with California’s prevailing wage law as delineated in SB 7.

C. Prevailing wages shall be paid on all public works contracts in accordance with Labor Code section 1782 (SB 7).

D. The provisions of this ordinance do not restrict the city from receiving or using state funding or financial assistance awarded prior to January 1, 2015, or from receiving or using state funding or financial assistance to complete a contract awarded prior to January 1, 2015. Further, this ordinance does not disqualify or amend any contracts awarded prior to January 1, 2015.

E. If SB 7 is, for any reason, held to be invalid or inapplicable to charter cities by any court of competent jurisdiction or is otherwise repealed, this ordinance shall automatically sunset and be of no further effect immediately thereafter. (Ord. 5676, 2014; Ord. 3832 §1, 1976.)

4.52.165 Public Works Contracts.

A. Bidding and advertising and award of contracts for public works, excluding maintenance and repair, shall be as required by Section 519 of the City Charter.

B. Section 519 of the City Charter provides that certain water-related projects may be excepted from the requirements of Section 519 by the affirmative vote of a majority of the total members of the City Council.

1. The City Council may determine by resolution that such a project may be solicited and contracted for using alternate project delivery methods, including, but not limited to, design-build, and design-build-operate, or competitive negotiation. Any such resolution shall set forth the reasons supporting the use of the alternate project delivery method for the project and describe the solicitation method to be used and the criteria for determining the party to whom the contract should be awarded. The Council may also authorize the reimbursement of the costs of proposers in participating in solicitations for such projects.

2. The selection process shall, to the extent feasible, be fair and open, encourage creative and innovative solutions, and ensure that the City receives the best value possible. During the selection process, the City may meet individually with potential proposers prior to submission of proposals in order to encourage creative solutions. Such meetings shall be tape recorded and the recording shall be made available upon request after final contract award. (Ord. 5724, 2015.)

4.52.170 Library Books and Periodicals.

The City Administrator or his designee may purchase library books and library periodicals in accordance with the budget approved by the City Council. (Ord. 3832 §1, 1976.)

4.52.180 Professional Services.

The award of contracts for professional services shall comply with Section 518 of the City Charter or any other procedures established by ordinance or resolution of the City Council consistent with Charter Section 518. (Ord. 5494, 2009.)

4.52.190 Debarment.

The City Administrator shall prepare and promulgate procedures for the suspension or debarment of nonresponsible bidders or contractors, and such procedures shall be approved by resolution of the City Council. (Ord. 5494, 2009.)

Chapter 4.60

PUBLIC WORKS BENEFIT ASSESSMENT DISTRICT

Sections:

4.60.010	Definitions.	4.60.090	Notice.
4.60.020	Alternative Procedure.	4.60.100	Formation of a Benefit Assessment District.
4.60.030	Liberal Construction of Chapter; Validity; Finality.	4.60.110	Changes of Organization for Benefit Assessment District.
4.60.040	Benefit Assessment District; Benefited Territory.	4.60.120	Collection and Enforcement of Assessments.
4.60.050	Benefit Assessment District; Contiguous or Non-Contiguous Territory.	4.60.130	Financial Provisions.
4.60.060	Extension of Work and Boundaries of Benefit Assessment District.	4.60.140	Bonds.
4.60.070	Reference to Plan or Map on File and Open to Public Inspection; Construction.	4.60.150	Assessment of Public Property.
4.60.080	Acquisition of Property; Assessment Costs.	4.60.160	Limitation of Action.
		4.60.170	Judicial Validation.
		4.60.180	Performance of Work.

4.60.010 Definitions.

The definitions contained in this Section shall govern the construction of this Chapter unless the context otherwise requires. The definition of a word or phrase applies to any variants thereof.

A. **BENEFIT ASSESSMENT DISTRICT.** A benefit assessment district formed pursuant to this Chapter.

B. **ENGINEER.** The City Engineer, or any other person designated by the City as the engineer for the purposes of any proceedings under this Chapter, including any officer, official, Councilmember or employee of the City or any private person or firm specially employed by the City as engineer for the purposes of this Chapter.

C. **IMPROVEMENT.** The acquisition, installation, construction, extension, reconstruction, repair, maintenance, operation, servicing or improvement or other enhancement of any public works, the costs of which acquisition, installation, construction, extension, reconstruction, repair, maintenance, operation, servicing, or improvement or other enhancement the City is not otherwise prohibited from financing by assessments.

D. **INCIDENTAL EXPENSES.** Any or all of the following:

1. The costs of preparation of any engineer's report, plans, specifications, descriptions, estimates, maps, diagrams and assessments relating to any proceeding hereunder;
2. The costs of printing, advertising and the giving of published, posted and mailed notices;
3. Compensation, if any, to reimburse the City or payable to the county or any other entity, appointed to collect assessments for costs of collection of assessments;

4. Compensation of any engineer, attorney or other professional employed to render services in proceedings pursuant to this chapter;
 5. Any other expenses incidental to an improvement;
 6. The costs of any acquisition of land, rights-of-way, easements, or other interests therein necessary or appropriate in connection with an improvement;
 7. The payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new benefit assessment district, provided that such payment shall be included in the new assessment levied pursuant to this Chapter on such parcel: and
 8. Any expenses incidental to the issuance of bonds, notes or other means of financing improvements, including interest owing for a period not to exceed the estimated completion of the improvements plus one year.
- E. **INCLUDING.** Unless otherwise expressly limited, means including without limitation and shall not operate to limit the generality of any words preceding such term or to exclude items dissimilar to those words following such term.
- F. **PROPERTY OWNER.** Any person shown as the owner of land on the last equalized county assessment roll, and where land is subject to a recorded written agreement of sale or conveyance, any person shown therein as purchaser.
- G. **PUBLIC AGENCY.** The State or federal government, any city, any city and county, any county or any other public corporation or entity formed pursuant to charter, general law or special act, for the performance of governmental or proprietary functions within limited boundaries, and any department, board, commission, independent agency or instrumentality of any of the foregoing.
- H. **PUBLIC SERVICE.** The provision of any service to members of the public by the City, including fire protection, police protection, public transportation, public parking, parks and recreational areas, highway improvement, sewage and wastewater treatment, flood protection, drainage, lighting, electric supply, water supply, gas supply, landscaping, land stabilization, geologic hazard prevention and control and rubbish collection.
- I. **PUBLIC UTILITY.** Any public utility subject to the jurisdiction of and regulated by the Public Utilities Commission of the State of California.
- J. **PUBLIC WORK.** Any tangible asset used for a public service, a public purpose or a public purpose incidental to a public service, and includes any real property or any ownership or leasehold interest therein, including rights-of-way and easements, necessary or appropriate in connection therewith, and any use or capacity rights in any of the foregoing.
- K. **RESOLUTION.** Includes any formal official action of a public agency, so denominated, or ordinances thereof. (Ord. 4472, 1987)

4.60.020 Alternative Procedure.

This Chapter shall provide a complete, additional and alternative procedure for accomplishing the acts authorized in this Chapter, and shall be deemed to be supplemental and additional to the powers conferred by the Constitution of the State of California, the Charter of the City and other applicable laws. The City may use the provisions of this Chapter instead of, or in conjunction with, any other laws or methods of financing part or all of the cost of improvements. (Ord. 4472, 1987.)

4.60.030 Liberal Construction of Chapter; Validity; Finality.

This Chapter shall be liberally construed to effectuate its purpose. Any proceedings taken under this Chapter and any assessment levied pursuant thereto shall not be invalidated for failure to comply with the provisions of this Chapter if such failure does not substantially and adversely affect the constitutional rights of any property owner. The exclusive remedy of any property owner so affected shall be appeal to the City Council in accordance with the provisions of this Chapter. All determinations made by the City Council pursuant to this Chapter shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion. All proceedings undertaken by the City pursuant to this Chapter shall be undertaken in accordance with the provisions of Section 19 of Article XVI of the California Constitution, as such section may be amended or supplemented from time to time. (Ord. 4472, 1987.)

4.60.040 Benefit Assessment District; Benefited Territory.

A benefit assessment district shall consist of all territory which, as determined by the City Council, will be benefited by the subject improvements or public works and is to be assessed to pay the costs thereof. (Ord. 4472, 1987.)

4.60.050 Benefit Assessment District; Contiguous or Non-Contiguous Territory.

A benefit assessment district may consist of all or any part of the territory within the City. A benefit assessment district may consist of contiguous or non-contiguous areas. The improvements in one area need not be of benefit to other areas. (Ord. 4472, 1987.)

4.60.060 Extension of Work and Boundaries of Benefit Assessment District.

The provisions of Chapter 2 (commencing with Section 5115) of Part 3 of Division 7 of the California Streets and Highways Code (as said provisions may from time to time be amended or supplemented) pertaining to the extension of the work or the territory of the benefit assessment district beyond the boundaries of a city, are by this reference incorporated into this Chapter. (Ord. 4472, 1987.)

4.60.070 Reference to Plan or Map on File and Open to Public Inspection; Construction.

Any resolution, notice, report, diagram, or assessment which is required to contain a description of the improvements, the boundaries of the benefit assessment district or any zones therein, or the lines and dimensions of any lot or parcel of land may, for a full and detailed description thereof, refer to any plan or map which is on file with the City Clerk, the county auditor, the county recorder or the county assessor and which is open to public inspection. The plan or map so referred to shall govern for all details of the description. (Ord. 4472, 1987.)

4.60.080 Acquisition of Property; Assessment Costs.

In any proceeding authorized pursuant to this Chapter, the City Council may order any acquisition of land, rights-of-way, easements, or other interests therein necessary or appropriate in connection with such improvement, and assess the cost of such acquisition as a part of the costs of such improvement. The City is authorized to advance the costs of such acquisition from legally available funds, and thereafter obtain reimbursement for such advance as a part of the costs of such improvement. As appropriate, acquisitions may be accomplished through the exercise of any applicable power of eminent domain or otherwise. (Ord. 4472, 1987.)

4.60.090 Notice.

The City Clerk shall give notice or cause the same to be given in accordance with this Section, unless the City Council delegates the duty of giving the notice to some other person, officer or board.

A. Published notice, when required, shall be made as provided in Section 6061 of the California Government Code, unless otherwise specified.

B. Posted notice, when required, shall be made by posting a copy of the notice upon any official bulletin board customarily used by the City for the posting of notices. Posted notices of hearings for the formation or consolidation of a benefit assessment district or for the annexation of territory to an existing benefit assessment district shall be posted at intervals of not more than 300 feet along all existing streets within the proposed benefit assessment district or within the territory proposed to be annexed to or consolidated with an existing benefit assessment district, as the case may be. Posting of notice of such hearings shall be completed at least ten (10) days prior to the date of hearing specified therein, if applicable.

C. Mailed notice, when required, shall be sent by first-class mail and deposited, postage prepaid, in the United States mails and shall be deemed given when so deposited.

The failure of the City Clerk or any person to whom the duty of giving notice was delegated to publish, post or mail any notice or the failure of any person to receive the same shall not affect in any way whatsoever the validity of any proceedings taken under this Chapter, nor prevent the City Council from proceeding with any hearing or other action so noticed. (Ord. 4472, 1987.)

4.60.100 Formation of a Benefit Assessment District.

A. INITIATION OF PROCEEDINGS. Proceedings for the formation of a benefit assessment district may be instituted by resolution of the City Council on its own initiative and shall be instituted by the City Council when a petition requesting the formation of a benefit assessment district is filed with the City Clerk. Such petition may consist of any number of separate instruments, each of which shall comply with all of the requirements set forth below with respect to the petition, except as to the number of signatures. Such petition shall:

1. Request the City Council to institute proceedings for the formation of a benefit assessment district pursuant to this Chapter;

2. describe the boundaries of the territory of the proposed benefit assessment district;

3. describe the proposed improvements; and

4. be signed by property owners of not less than sixty percent (60%) of the area of land proposed to be included within the benefit assessment district. If the City Council finds that the petition is signed by the requisite number of property owners proposed to be included within the benefit assessment district, that finding shall be final and conclusive.

B. Within 90 days after a petition described in Subsection (A) is filed with the City Clerk, the City Council shall adopt a resolution in the form specified in Subsection (C).

C. **PRELIMINARY RESOLUTION.** Proceedings for the formation of a benefit assessment district shall be initiated by a resolution of the City Council. Such resolution shall:

1. propose the formation of a benefit assessment district pursuant to this Chapter and specify a distinctive designation for the district;
2. describe the improvements;
3. describe the exterior boundaries of the proposed benefit assessment district; and
4. order the engineer to prepare and file a report in accordance with Subsection (D).

The descriptions in the resolution need not be detailed but shall be sufficient if they enable the engineer to generally identify the nature, location, and extent of the improvements and the location and extent of the benefit assessment district.

D. **ENGINEER'S REPORT.** The engineer shall prepare a report which shall contain all of the following:

1. A description of the proposed improvements which are not already installed. Such description need not be detailed, but shall be sufficient if it shows or describes the general nature, location, and extent of the improvements. If the benefit assessment district is divided into zones, the description shall indicate the class and type of improvements to be provided for each such zone.

2. A general description of improvements already installed and any other property necessary or convenient for the operation of the improvements if such property is to be acquired as part of the improvement.

3. An estimate of the costs of the improvements, including an estimate of any incidental expenses. The estimate of the costs of the improvements shall contain estimates for all of the following:

a. the total costs for improvements to be made being the total costs of acquiring, installing, construction, reconstructing, extending, repairing or improving or otherwise enhancing all proposed public works plus, if the proposed benefit assessment district is to participate in maintenance, operation or servicing of the proposed public works, the total estimated costs of maintaining, operating and servicing all existing and proposed public works, including all incidental expenses;

b. the amount of any contributions to be made from sources other than assessments levied pursuant to this Chapter; and

c. the net amount to be assessed upon assessable lands within the benefit assessment district, being the total costs for improvements, as referred to in Subsection (a), decreased by the amounts, if any, referred to in Subsection (b).

4. A diagram for the benefit assessment district which shall show (a) the exterior boundaries of the benefit assessment district, and (b) the boundaries of any zones within the benefit assessment district. Each lot or parcel shall be identified by a distinctive number or letter.

5. Proposed assessments for the net estimated costs of the improvements and incidental expenses upon the several subdivisions of land in the benefit assessment district in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement.

The net amount to be assessed upon the lands within a benefit assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.

The diagram and assessment may classify various areas within a benefit assessment district into different zones where, by reason of variations in the nature, location and extent of the improvements and other factors which may be identified in the engineer's report, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory which will receive substantially the same degree of benefit from the improvements.

E. **APPROVAL OF ENGINEER'S REPORT.** Upon completion, the engineer shall file the report with the City Clerk for submission to the City Council. The City Council may approve the report, as filed, or it may modify the report in any particular and approve it as modified.

F. **RESOLUTION OF INTENTION.** After approval of the report, either as filed or as modified, the City Council shall adopt a resolution of intention which shall do all of the following:

1. Declare the intention of the Council to order the formation of a benefit assessment district to levy and collect assessments;

2. Generally describe the improvements;

3. Refer to the proposed benefit assessment district by its distinctive designation and refer to the report of the engineer, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the benefit assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the benefit assessment district; and

4. Give notice of, and fix a time and place for, a public hearing by the City Council on the question of the formation of the benefit assessment district and the levy of the proposed assessment at which hearing protests to the improvements or the assessment will be considered.

G. NOTICE OF PUBLIC HEARING. The City Clerk shall give notice of passage of the resolution of intention and of the public hearing by publishing, posting and mailing to each property owner, as provided in Section 4.60.090 of this Chapter, a notice containing the following information:

1. a reference to the resolution of intention adopted in accordance with Subsection (F);
2. a statement of the time, place and purpose of the public hearing;
3. an estimate of the total cost of the proposed improvement;
4. for purposes of the mailed notice only, the amount as shown by the engineer's report estimated to be assessed against the particular parcel covered by the notice;
5. a statement that any property owner interested may file a protest in writing stating all grounds of objection with the City Clerk at least 24 hours before the time set for the hearing and that any written protest must include a description of the property in which each signer of the protest is interested.

H. PUBLIC HEARING. The City Council shall hold the public hearing at the time and place fixed in the resolution of intention and in any order continuing the hearing. All interested persons shall be afforded the opportunity to hear and be heard.

I. CHANGES TO MATTERS IN ENGINEER'S REPORT. During the course or upon the conclusion of the hearing, the City Council may order changes in any of the matters provided in the engineer's report, including changes in the improvements, the boundaries of the proposed benefit assessment district and any zones therein, and the proposed diagram or the proposed assessment. The City Council may, without further notice, order the exclusion of territory from the proposed benefit assessment district, but shall not order the inclusion of additional territory within the benefit assessment district except upon written request by a property owner for the inclusion of his or her property or upon the giving of mailed notice of hearing to the owners of such additional territory upon the question of the inclusion of their property in the benefit assessment district.

J. MAJORITY PROTEST. Upon the conclusion of the hearing, the City Council shall determine whether a majority protest exists. For that purpose, the extent of the territory of the proposed benefit assessment district shall be adjusted in accordance with any orders excluding territory from or including additional territory within the benefit assessment district. A majority protest exists if, upon the conclusion of the hearing, written protests filed and not withdrawn represent property owners owning more than fifty percent (50%) of the area of land to be assessed for the improvements within the proposed benefit assessment district, unless the City Council in its Resolution of Intention with regard to any benefit assessment district determines that the majority protest shall be measured on a basis other than area of land.

K. ABANDONMENT UPON MAJORITY PROTEST; OVERRIDE. Proceedings for the formation of the benefit assessment district shall be abandoned if there is a majority protest unless, by a four-fifths vote of all members of the City Council, the protest shall be overruled.

L. RESOLUTION ORDERING IMPROVEMENTS, FORMING DISTRICT AND LEVYING AN ASSESSMENT. If a majority protest has not been filed, or, if filed, has been overruled, the City Council may adopt a resolution ordering the improvements and the formation of the benefit assessment district and confirming the diagram and assessment, either as originally proposed or as changed by order of the City Council. The adoption of the resolution shall constitute the levy of the assessment which may be collected in annual installments. The City Clerk shall record a notice and assessment diagram describing the assessment as provided in Part 2 of Division 4.5 (commencing with Section 3110) of the California States and Highways Code, as such Division may from time to time be amended or supplemented, except that the period for which the lien continues shall be 30 years instead of the period of 10 years shown in Streets and Highways Code § 3115(c).

M. ASSESSMENT LIEN. From the date of recordation, each assessment levied pursuant to this chapter is a lien upon the land upon which it is levied. This lien is paramount to all other liens, except prior assessments and tax liens. Unless sooner discharged, the lien continues for a period of 30 years from the date of recordation or, if bonds, notes or other instruments are issued to represent the assessment, until the expiration of four years after the due date of the last installment on such bonds, notes or other instruments. All persons have constructive notice of this lien from the date of recordation.

N. NOTICE OF RECORDATION AND ASSESSMENT. The City Clerk shall send mailed notice to the property owners, in accordance with Section 4.60.090 of this Chapter, of recordation of assessment. Such notice shall include:

1. a designation of the property assessed;
2. the amount of the assessment;
3. the date of recordation of the assessment;
4. if provided for in the resolution levying the assessment, that the payment of the sums assessed are due and payable and may be paid as provided by the City Council within 30 days after the date of recording the assessment and the effect of failure to pay within the 30-day period, all in accordance with the resolution of the City Council levying such assessment. (Ord. 4472, 1987.)

4.60.110 Changes of Organization for Benefit Assessment District.

A. The City Council, either in a single proceeding or by separate proceedings, may order one or any combination of the following changes of organization:

1. The annexation of territory to an existing benefit assessment district formed pursuant to this Chapter;
2. The detachment of territory from an existing benefit assessment district formed pursuant to this Chapter;
3. The dissolution of an existing benefit assessment district formed pursuant to this Chapter; or
4. The consolidation into a single benefit assessment district formed pursuant to this Chapter of two or more existing benefit assessment districts formed pursuant to this Chapter.

The City Council shall not, by annexation, detachment, dissolution, or consolidation, alter the obligation of property owners to pay assessments levied for which improvements were financed by bonds, notes or other instruments issued to represent the assessment. This section does not prevent the lawful refunding of any such bonds or financing or the apportionment of assessments upon the division of properties assessed.

B. Proceedings for a change of organization may be:

1. Undertaken subsequent to or concurrently with proceedings for the formation of a benefit assessment district under this Chapter. Any or all such proceedings may be continued on the completion of any other or all such proceedings.
2. Combined with proceedings for the formation of a benefit assessment district under this Chapter. In such case, any of the several resolutions, reports, notices, or other instruments provided for in this Chapter may be combined into single proceedings.

C. Except as otherwise provided herein, proceedings for a change of organization shall be initiated, conducted, and completed in substantial compliance with the procedure provided in Section 4.60.100 for the formation of a benefit assessment district.

D. In annexation proceedings, the resolutions, reports, notices of hearing, and right of majority protest shall be limited to the territory proposed to be annexed, unless the City Council determines that property owners in the benefit assessment district to which the subject annexation is proposed could be adversely affected by such annexation, in which case such property owners shall also be provided with notice of the hearing. Notice of hearing on the proposed annexation shall be published, posted, and mailed, as applicable, as provided in Section 4.60.090. (Ord. 4472, 1987.)

4.60.120 Collection and Enforcement of Assessments.

A. After the filing of the diagram and assessment, unless the City Council otherwise requests the county auditor or some other public agency official to enter on the county assessment roll or other public record opposite each lot or parcel of land the amount assessed thereupon, the City Finance Director or other such officer, employee or agent of the City as the City Council may determine, shall create a benefit assessment roll or other public record for each lot or parcel of land showing the amount or basis of calculating the amount assessed, as shown in the assessment.

B. Unless otherwise determined by the City Council, assessments shall be collected at the same time and in the same manner as county taxes are collected, and all laws providing for the collecting and enforcement of county taxes shall apply to the collection and enforcement of the assessments. If collection of any assessments is to be done by a public agency other than the City, the net amount of the assessments collected, after deduction of any compensation due such public agency for collection, if any, shall be paid to the City Treasurer.

C. The City may charge a penalty of up to two percent per month for delinquent assessments, unless a different penalty is provided for in the resolution levying the assessment for a particular benefit assessment district.

D. The City may bring an action in any court of competent jurisdiction against property owners to collect delinquent assessments and penalties thereon or to enforce the lien thereof. (Ord. 4472, 1987.)

4.60.130 Financial Provisions.

A. Upon receipt of monies representing assessments, the City Treasurer shall deposit the monies in the treasury of the City to the credit of an improvement fund for the benefit assessment district from which they were collected, and the monies shall be expended only for the improvements or to repay financing incurred for the improvements authorized for such benefit assessment district.

B. If there is a surplus in the improvement fund for a benefit assessment district upon completion of the improvement, or, if later, upon repayment of the financing therefore, the City Council shall determine the amount of the surplus and shall direct such amount to be applied first to repay the City for any prior contribution or advance made to the fund (as contemplated in Subsection (C)), and second as a credit to the assessment in the proportion which each individual assessment bears to the total of all individual assessments. Where an individual assessment has been paid in cash, the credit shall be returned in cash to the person paying the same upon their furnishing satisfactory evidence of payment. Where any part of an individual assessment remains unpaid, the amount of the surplus apportioned to each parcel shall be credited against the next installment or installments. Any portion of a surplus which has not been paid or claimed by the persons entitled thereto within four years from such entitlement (or if bonds, notes or other instruments issued to represent the assessment have been issued, within four years after the due date of the last installment upon such bonds, notes or instruments) or a surplus or any portion thereof that amounts to \$50 or less to an individual property owner shall be transferred to the City's general fund.

C. If there is a deficit in the improvement fund of a benefit assessment district during any fiscal year, the City Council, from any available and unencumbered funds of the City, may provide but has no obligation to provide for:

1. A contribution to the improvement fund; or
2. A temporary advance to the improvement fund and direct that the advance be repaid from the next annual assessments levied and collected within the benefit assessment district.

D. The City Council may accept contributions from any source toward payment of costs of the improvements for financing therefor. The City Council, at any time either before or after the confirmation of the assessment, may provide for contributions towards payment of improvement costs. All contributions shall be deposited in the improvement fund of the benefit assessment district for which the contribution was provided.

E. In determining an individual assessment, credit may be given for dedications and for improvements constructed at private expense.

F. All contributions authorized prior to confirmation of an assessment shall be deducted from the total improvement costs to be assessed within the benefit assessment district. (Ord. 4472, 1987.)

4.60.140 Bonds.

A. The City Council may, by resolution, determine and declare that bonds, notes or other instruments shall be issued to finance the estimated cost of the proposed improvements, including incidental expenses.

B. The resolution authorizing such issuance shall generally describe the proposed improvements, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the maximum amount of each annual installment necessary to retire the bonds, notes or other instruments.

C. Notwithstanding any other provision of this Chapter, assessments levied to pay the principal of, and interest on, any bond, note or other instrument issued to represent an assessment levied pursuant to this Chapter, shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt. (Ord. 4472, 1987.)

4.60.150 Assessment of Public Property.

Public property owned by any public agency and in use in the performance of a public function shall not be subject to assessment under this Chapter, unless the resolution of intention expressly provides that it shall be assessed. (Ord. 4472, 1987.)

4.60.160 Limitation of Action.

The validity of an assessment levied under this chapter shall not be contested in any action or proceeding, unless the action or proceeding is commenced within thirty (30) days after the assessment is levied. (Ord. 4472, 1987.)

4.60.170 Judicial Validation.

An action to determine the validity of the acquisition or improvement of any public work, any assessment or any bonds, notes or other financing instituted pursuant to this Chapter may be brought by the City upon authorization of such action by the City Council or by any interested person pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the California Code of Civil Procedure. For such purposes, the "acquisition or improvement of any public work" or an "assessment" shall be deemed to be in existence upon adoption of the resolution ordering the improvements and confirming the assessment (as described in Section 4.60.100(C) of this Chapter). (Ord. 4472, 1987.)

4.60.180 Performance of Work.

A. The City Council, by contract or otherwise, shall provide for the performance of all work ordered by it pursuant to this Chapter, including the acquisition, installation, construction, extension, reconstruction, repair, maintenance, operation, servicing, improvement or other enhancement of any public works.

B. All or any part of the public works may be acquired, installed, constructed, extended, reconstructed, repaired, maintained, operated, serviced, improved or otherwise enhanced or owned by one or any combination of the following:

- (1) the City;
- (2) any other public agency; or
- (3) any public utility.

(Ord. 4472, 1987.)

Chapter 4.65

SEISMIC SAFETY ASSESSMENT DISTRICT PROGRAM

Sections:

4.65.010	Procedure for Levy of Assessments and Issuance of Bonds for Buildings Subject to the Regulations.	4.65.060	Improvement Bond Act of 1915 - Amendments and Deletions.
4.65.020	Improvement District Procedures - Municipal Improvement Act of 1913 and Improvement Bond Act of 1915 and Related Acts Adopted by Reference.	4.65.070	Tax Exempt Status.
4.65.030	Contracts for Construction of Privately Owned Improvements - Supplement to Municipal Improvement Act of 1913.	4.65.080	Scope and Construction of Chapter Provisions.
4.65.040	Municipal Improvement Act of 1913 - Amendments and Deletions.	4.65.090	Reference to Division.
4.65.050	Alternate Assessment Collection Procedures - Supplement to Improvement Bond Act of 1915.	4.65.100	Contest of Validity; Limitation of Actions; Time for Appeal.
		4.65.110	Construction of Chapter; Validation of Proceedings and Assessments.
		4.65.120	Amendments.
		4.65.130	Inconsistent Provisions.
		4.65.140	Chapter to be Liberally Construed.
		4.65.150	No Liability of City.

4.65.010 Procedure for Levy of Assessments and Issuance of Bonds for Buildings Subject to the Regulations.

Assessments may be levied and bonds may be issued in accordance with this Chapter for the purpose of funding rehabilitation and repair work necessary to bring buildings in the City into compliance with the Regulations (which shall be defined as the requirements of Chapter 22.18 of the Santa Barbara Municipal Code.). (Ord. 4735, 1991.)

4.65.020 Improvement District Procedures -- Municipal Improvement Act of 1913 and Improvement Bond Act of 1915 and Related Acts Adopted by Reference.

A. Establishing Improvement Districts. Subject to the provisions of Section 4.65.010, whenever the public interest and necessity so require, the City Council may, acting pursuant to this Chapter, by resolution or resolutions, establish improvement districts, levy assessments therein, issue bonds or other evidences of indebtedness, and take any and all other actions authorized hereby to provide funds to finance the acquisition, construction, establishment, improvement, installation, or renovation of any improvements of benefit to the improvement districts so established.

B. Necessary Procedures. The procedures for such undertakings shall (except as in this Chapter otherwise expressly provided) be the procedures set forth in the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, commencing with Section 10000) and in the Improvement Bond Act of 1915 (Division 10 of the California Streets and Highways Code, commencing with Section 8500) and all other statutes of the State of California referred to therein or which refer to said Municipal Improvement Act of 1913 or said Improvement Bond Act of 1915, as the same are in effect on the date of introduction of this Chapter and as such statutes may hereafter be amended; provided, that any provision of the Streets and Highways Code of the State of California amended, revised or deleted pursuant to Sections 4.65.040 and 4.65.060 hereof shall only be further amended, revised or deleted by amendment, revision or deletion to this Chapter made by the City Council. All of the provisions of said statutes are incorporated in this Chapter by reference and made a part hereof. (Ord. 4735, 1991.)

4.65.030 Contracts for Construction of Privately Owned Improvements -- Supplement to Municipal Improvement Act of 1913.

Subject to the provisions of Section 4.65.010, notwithstanding any other provision of law, whenever the public interest and necessity so require, and upon such terms and conditions as the City Council shall determine, the City, may pay or cause to be paid amounts payable under contracts between private owners of property on which improvements are constructed or to be constructed hereunder, or may reimburse the private property owners for such payments. Subject to said terms and conditions, said payments may be made in the amounts, at the times and upon the conditions as provided in said contracts. If the City Council so provides in the Resolution of Intention, such payments or reimbursements may be made contingent upon satisfactory completion of the improvements. (Ord. 4735, 1991.)

4.65.040 Municipal Improvement Act of 1913 - Amendments and Deletions.

Certain provisions of the California Streets and Highways Code, as incorporated in this Chapter, are revised or deleted, as follows:

A. Definitions.

1. Section 10003 of the California Streets and Highways Code is amended to read that "Municipality" and "City" shall mean the City of Santa Barbara, California.
2. Section 10004 of the California Streets and Highways Code is amended to read that "Legislative body" shall mean the City Council of the City of Santa Barbara.
3. Section 10010 of the California Streets and Highways Code is amended to read that "Acquisition" (or any of its variants) shall mean and includes one or more of the following:
 - a. All or any portion of any privately owned works, improvements, appliances or facilities, necessary to bring unreinforced masonry buildings in the City into compliance with the Regulations. Said improvements may be acquisitions hereunder whether or not they are in existence and installed in place on or before the date of adoption of the resolution of intention for the acquisition thereof;
 - b. Electric current, gas or other illuminating agent for power or lighting service incidental to the works described in subsection (a);
 - c. Any real property, rights-of-way, easements or interests in real property, acquired or to be acquired by gift, purchase or eminent domain, and which are necessary or convenient in connection with the construction or operation of any work or improvement described in subsection (a);
 - d. The payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new assessment district. The cost of such payment shall be included in the new assessment on such parcel. This subdivision shall be applicable only in cases where such acquisition is incidental to other acquisitions or improvements.
4. Acquire - Acquisition. As used herein with respect to any improvements, the term "acquire" or the term "acquisition" shall refer to improvements to be financed hereunder to be acquired by the owner of the property to be improved, and shall not refer to the acquisition by the City of any improvements or property.

B. Substantive Changes.

1. Section 10100 of the California Streets and Highways Code is hereby amended to read as follows:

"Section 10100. Authorized improvements. Whenever the public convenience and necessity require, the City may pay the cost of all work and improvements, whether acquired, owned, installed, constructed, authorized or undertaken by any Owner which are necessary or incidental to comply with the Regulations.
2. Section 10112 of the California Streets and Highways Code is amended to read as follows:

"Section 10112. Preliminary steps as improvements. In the case of any proposal for the construction or acquisition of improvements pursuant to this division, the preliminary steps for the proposal, including, but not limited to, environmental impact reports, feasibility studies, engineering plans, cost estimates, legal expenses, the cost of title searching, description writing, salaries of right-of-way agent, appraisal fees, partial reconveyance fees, surveys, sketches, maps, expenses incident to property acquisition, costs of obtaining necessary governmental permits and elections may themselves be deemed, in the discretion of the legislative body, to be improvements within the meaning of this division."
3. Paragraph (b) of Section 10204 of the California Streets and Highways Code is amended to read as follows:

"(b) A general description of works or appliances already installed or being installed or to be installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement. In the case of the acquisition of improvements being or to be installed pursuant to contracts executed by any developer or landowner, a schedule showing, as of the date of adoption of the resolution of intention, the total amount paid on such contracts, the estimated schedule of payments remaining under the contracts, and the estimated completion date for each phase of the construction of the improvements to be acquired."
4. Section 10301 of the California Streets and Highways Code is amended to read as follows:

"Section 10301. Hearing of protests; time and place; notice. After preliminarily approving the report, the legislative body by resolution shall appoint a time and place for hearing protests to the proposed improvements and acquisitions and shall direct the clerk of the legislative body to give notice of the hearing as provided in this Chapter, and shall designate a newspaper of general circulation in which the notice shall be published. The hearing shall be held not less than 30 days after the passage of the resolution."
5. Sections 10009, 10104 and 10700-10706 of the California Streets and Highways Code are not incorporated in this Chapter and shall not be applicable to the doing of work, the acquisition of improvements, and the issuance of bonds pursuant to this Chapter. (Ord. 4735, 1991.)

4.65.050 Alternate Assessment Collection Procedures -- Supplement to Improvement Bond Act of 1915.

As a complete and alternative method of collecting the assessment and installments thereof under this Chapter, the City may by resolution establish a collection procedure not requiring that the assessment or installments thereof be collected on the tax rolls of the County of Santa Barbara; provided, that such alternative collection procedure shall be described in the Resolution of Intention adopted hereunder. (Ord. 4735, 1991.)

4.65.060 Improvement Bond Act of 1915 -- Amendments and Deletions.

A. Definitions. Certain provisions of the California Streets and Highways Code, as incorporated in this Chapter, are revised or deleted, as follows:

1. Section 8503 of the California Streets and Highways Code is amended to read as follows: Section 8503. City. "City" means the City of Santa Barbara.

2. Section 8504 of the California Streets and Highways Code is amended to read as follows: Section 8504. Legislative body. "Legislative body" means the City Council of the City of Santa Barbara.

B. Substantive Changes.

1. Section 8573 of the California Streets and Highways Code is amended to read as follows: Section 8573. Form of bond declaration. The bond declaration in the resolution of intention, assessment, and notice of recording the assessment may be substantially in the following form:

"Notice is hereby given that serial or term bonds, or both, to represent unpaid assessments, and to bear interest at the rate of not to exceed Fourteen (14) percent per annum, will be issued hereunder in the manner provided by the City of Santa Barbara Seismic Assessment Program, which incorporates by reference certain provisions of Division 10 of the Streets and Highways Code, the Improvement Bond Act of 1915, and the last installment of such bonds shall mature Thirty five (35) years from the second day of September next succeeding 12 months from their date."

2. Section 8650 of the California Streets and Highways Code is amended to read as follows: Section 8650. Issuance in series; principal and interest payments; interest rate. Except as the legislative body shall otherwise provide pursuant to Section 8650.1, the bonds shall be issued in series and an even annual proportion of the aggregate principal sum thereof shall be payable on the first day of August every year succeeding the first 12 months after their date, until the whole is paid. The bonds shall bear interest at a rate not in excess of the maximum rate permitted by law from the 31st day after recording the assessment, or from their date if the work was done under the Municipal Improvement Act of 1913, on all sums unpaid, until the whole of the principal sum and interest are paid.

Interest shall be payable semiannually on the first day of February and August, respectively, of each year. The first payment of interest shall become due on the interest payment date which is six months before the maturity of the first series of bonds, but, if any portion of the interest is funded, the legislative body may specify that the first payment of interest shall become due on any earlier interest payment date following the date of the bonds. Interest shall be payable to the registered holders of the bonds as their names and addresses appeared on the registration records of the City or its registration agent on the 15th day of the month preceding the interest payment date.

3. Section 8651.5. of the California Streets and Highways Code is amended to read as follows: Section 8651.5. Redemption; redemption premium. Each bond, or any portion of the bond in a fixed amount or any integral multiple of the fixed amount, shall be subject to redemption in advance of its maturity on any interest payment date upon payment to the registered owner of the principal and accrued interest to the date of redemption together with a redemption premium, if any, as determined by the legislative body, but not to exceed 5 percent of the principal. At or before issuance of the bonds, the legislative body may reduce the redemption premium to an amount equal to not less than 0 percent of the principal.

4. Section 8652 of the California Streets and Highways Code is amended to read as follows: Section 8652. Form. The bonds shall be substantially in the following form, subject to such changes thereto as the legislative body shall deem necessary or desirable:

United States of America
State of California
County of Santa Barbara

REGISTERED REGISTERED
Number \$

LIMITED OBLIGATION IMPROVEMENT BOND
City of Santa Barbara

SERIES NO. _____

INTEREST MATURITY BOND CUSIP
RATE DATE DATE NUMBER

PRINCIPAL AMOUNT:
REGISTERED OWNER:

Under and by virtue of its Charter, Ordinance No. _____ duly adopted by the City Council of the City of Santa Barbara on _____, 19____ and, to the extent incorporated in said Ordinance, the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code (collectively, the "Act"), the City of Santa Barbara, County of Santa Barbara, State of California (the "City"), will, out of the redemption fund for

This bond or any portion of it in the amount of five thousand dollars (\$5,000), or any integral multiple thereof, may be redeemed and paid in advance of maturity upon the first day of February or August in any year by giving at least 30 days' notice by registered or certified mail or by personal service to the registered owner hereof at the owner's address as it appears on the registration books of the _____ (issuing agency or registration agent) by paying principal and accrued interest together with a premium equal to _____ percent of the principal.

The City Council of the City of Santa Barbara has determined not to obligate itself to advance funds from the City treasury to cure any deficiency in the bond redemption fund.

[This bond is not subject to refunding pursuant to the procedures of Division 11 (commencing with Section 9000) or Division 11.5 (commencing with Section 9500) of the Streets and Highways Code prior to _____, _____.]

I hereby certify that the following is a correct copy of the signed legal opinion of _____ (City Clerk).

5. Section 8682 of the California Streets and Highways Code is amended to read as follows: Section 8682. Auditor's record of unpaid assessment; collection costs. A copy of the order of the legislative body determining the assessments remaining unpaid and upon the security of which bonds are issued shall be filed in the office of the county auditor. The county auditor shall keep a record in his or her office showing the several installments of principal and interest on the assessments which are to be collected in each year during the term of the bonds. The county auditor shall annually enter in his or her assessment roll on which taxes will next become due, opposite each lot or parcel of land affected in a space marked "seismic improvement assessment," or by other suitable designation, the several installments of the assessment coming due during the fiscal year covered by the assessment roll, including in each case the interest due on the total unpaid assessments. The county auditor shall also add a maximum of 5 percent of the amount of the installments and of the interest so entered, not to exceed the City treasurer's estimate of the expenses of collection. The expenses of collection shall include necessary administrative expenses of the City incurred in providing the county auditor with current information regarding the ownership or division of the affected lots or parcels of land to ensure the proper entry by the county auditor in his or her assessment roll of the several installments of the assessment coming due during the fiscal year covered by the assessment roll and the timely collection of the installments. The percentages, and the amount represented by the installments, when collected shall belong to the City and shall cover the expenses and compensation of the City treasurer incurred in the collection of the assessments, and of the interest and penalties added on to the assessments. No other percentage or amount shall be claimed by the legislative body for the collections.

6. Section 8683 of the California Streets and Highways Code is amended to read as follows: Section 8683. County collection for cities; report; expenses. If collections of assessments are made by county officials, the City shall request in writing the county auditor to render, within 90 days after each installment becomes delinquent, to the City a detailed report showing the amounts of the installments, interest, penalties, and percentages so collected on each proceeding and from what property collected, identifying any properties which are delinquent and the amount and length of time in arrears, and also giving a statement of the percentages retained for the expenses of making such collections.

7. Section 8775 of the California Streets and Highways Code is amended to read as follows: Section 8775. Temporary redemption fund deficiency; priority for payment. Unless the legislative body shall by resolution adopt an alternative procedure, if a deficiency occurs in the redemption fund with which to pay past due bonds, past due interest, or bonds or interest which will become due during the current tax collecting year, but it does not appear to the treasurer that there will be an ultimate loss to the bondholders, he or she shall pay matured bonds as presented and make interest payments when due as long as there are available funds in the redemption fund, in the following order of priority:

- (1) All matured interest payments shall be made before the principal of any bonds is paid.
- (2) Interest on bonds of earlier maturity shall be paid before interest on bonds of later maturity.
- (3) Within a single maturity, interest on lower-numbered bonds shall be paid before interest on higher-numbered bonds.
- (4) The principal of bonds shall be paid in the order in which the bonds are presented for payment. Any bond which is presented but not paid shall be assigned a serial number according to the order of presentation and shall be returned to the bondholder.

Bonds not paid when presented, and interest payments not paid when due, shall bear interest at the rate stated in the bonds, without compounding, until paid.

8. Sections 8689, 8804 and 8809 of the Streets and Highways Code are not incorporated in this Chapter and shall not be applicable to the doing of work, the acquisition of improvements and the issuance of bonds pursuant to this Chapter. (Ord. 4735, 1991.)

4.65.070 Tax Exempt Status.

To the extent provided by the Constitution and statutes of the State of California, the interest on the bonds shall be exempt from taxation in California. (Ord. 4735, 1991.)

4.65.080 Scope and Construction of Chapter Provisions.

The powers conferred upon the City Council by the provisions of this Chapter are in addition to and supplemental to the powers conferred by any other ordinance or by law. The improvements designated in this Chapter may be constructed, reconstructed, acquired, improved, bettered and extended with moneys advanced for that purpose in accordance with the provisions of this Chapter, notwithstanding any other law and without regard to the requirements, restrictions, limitations or provisions contained in any other law. (Ord. 4735, 1991.)

4.65.090 Reference to Division.

Whenever reference is made in any of the statutes of the state incorporated herein to the issuance of bonds pursuant to a specified division of the California Streets and Highways Code, such reference shall also be deemed to include this Chapter in the issuance of bonds pursuant to the division referred to. (Ord. 4735, 1991.)

4.65.100 Contest of Validity; Limitation of Actions; Time for Appeal.

The validity of an assessment or supplementary assessment levied under this Chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is levied. Any appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment. (Ord. 4735, 1991.)

4.65.110 Construction of Chapter; Validation of Proceedings and Assessments.

This Chapter shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality, and no neglect or omission of any officer, in any procedure taken under this Chapter, which does not directly affect the jurisdiction of the legislative body to order the work or improvement, shall avoid or invalidate such proceeding or any assessment for the cost of work done thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the legislative body in accordance with the provisions of this Chapter. (Ord. 4735, 1991.)

4.65.120 Amendments.

This Chapter may be amended at any time for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision herein contained, as the City may deem necessary or desirable as long as such amendment does not (i) materially impair or adversely affect the interests of any owner within an improvement district established pursuant to the provisions hereof in a manner inconsistent with the provisions hereof without the written consent of such owner, or (ii) materially impair or adversely affect the interests of any owner of bonds payable from assessments levied hereunder, without the written consent of such bondowner. (Ord. 4735, 1991.)

4.65.130 Inconsistent Provisions.

Any provisions of the Santa Barbara Municipal Code or appendices thereto or any other ordinances of the City inconsistent herewith shall not apply to proceedings or improvements hereunder. (Ord. 4735, 1991.)

4.65.140 Chapter to be Liberally Construed.

This Chapter, being necessary for the health, welfare and safety of the City and its residents, shall be liberally construed in order to effectuate its purposes. No error, irregularity or informality, and no neglect or omission of any officer, in any procedure taken under this Chapter, which does not directly affect the jurisdiction of the City Council to order the work or improvements, shall avoid or invalidate such proceeding or any assessment thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the City Council. (Ord. 4735, 1991.)

4.65.150 No Liability of City.

The formation of an improvement district and the issuance of bonds to finance the improvements shall not subject the City to liability under any state, federal or local law for any cause of action which may be brought with respect to the improvements installed or constructed pursuant to this Chapter. Such improvements shall at all times be private improvements owned, built, controlled, operated and maintained by the private owners and will not be public improvements for purposes of determining the liability of the City. (Ord. 4735, 1991.)

Chapter 4.70

FORMATION OF COMMUNITY FACILITIES DISTRICTS

Sections:

4.70.010	Local Community Facilities Districts - Purposes.	4.70.040	Procedures for Conducting Landowner Elections for Local Community Facilities Districts.
4.70.020	Procedures for Establishing Local Community Facilities Districts.		
4.70.030	Mello-Roos Community Facilities Act of 1982 - Amendments and Deletions.		

4.70.010 Local Community Facilities Districts - Purposes.

This Chapter provides a complete, additional and alternative method for doing the things authorized by this Chapter and shall be regarded as supplemental and additional to the powers conferred by any other laws of the state of California. This Chapter provides a means of forming local community facilities districts within the City of Santa Barbara, authorizing the levy of special taxes within such districts, authorizing the issuance of bonds, and financing the provision of public facilities and services within such districts pursuant to the authority the City of Santa Barbara holds over its municipal affairs under Article XI, Section V of the California Constitution and the Charter of the City. (Ord. 4834, 1993.)

4.70.020 Procedures for Establishing Local Community Facilities Districts.

The procedures for undertaking formation of a local community facilities district under this Chapter (except as otherwise expressly provided in this Chapter) shall be the procedures set forth in the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, beginning with §53311) and all other statutes of the State of California referred to therein or which refer to the Mello-Roos Community Facilities Act of 1982, as the same are in effect on the date of introduction of this Chapter and as such statutes may hereafter be amended; provided, that any provision of general law of the State of California amended, revised or deleted pursuant to Section 4.70.030 hereof shall only be further amended, revised or deleted by an amendment, a revision or a deletion to this Chapter made by the City Council. All of the provisions of said state statutes are incorporated in this Chapter by this reference and made a part hereof. References in the Mello-Roos Community Facilities Act of 1982 to "this chapter" shall, when the provisions of that Act are being used as incorporated in this Chapter of the Santa Barbara Municipal Code, be references to this Chapter of the Santa Barbara Municipal Code. (Ord. 4834, 1993.)

4.70.030 Mello-Roos Community Facilities Act of 1982 - Amendments and Deletions.

A. SUBSTANTIVE REVISIONS OF THE MELLO-ROOS COMMUNITY FACILITIES ACT. Certain provisions of the California Government Code, as incorporated by this Chapter, are hereby revised or deleted, as follows:

1. Section 53317(a) of the California Government Code is amended to provide that "Clerk" means the City Clerk of the City of Santa Barbara.
2. Section 53317(f) of the California Government Code is amended to provide that "Landowner" or "owner of land" may include, when votes are apportioned based on maximum special tax, pursuant to Section 53326 (a) or (b) and when the resolution of intention so indicates, a "business tenant."
3. Section 53317(g) of the California Government Code is amended to provide that "Legislative body" means the City Council of the City of Santa Barbara.
4. Section 53317(h) of the California Government Code is amended to provide that "Local Agency" means the City of Santa Barbara.
5. Section 53317 of the California Government Code is amended to add a paragraph (k) which reads as follows:

(k) "Business tenant" means the owner or owners of a business located within a community facilities district formed or proposed to be formed pursuant to this Chapter, where such owner or owners are not the owners of the real property where the business is located, and where: (1) the business owner and the property owner agree in writing that the business owner will be responsible for the payment of all or a portion of the special tax, should it be levied, or; (2) the business owner can prove, by the terms of a lease or otherwise, that the obligation to pay any special tax levied pursuant to this Chapter will fall in whole or in part upon such business owner or owners. A business owner shall be a business tenant only to the extent of the special tax burden on the business owner shown by such agreement or proof.

6. Section 53324 of the California Government Code is not incorporated in this Chapter, and shall not be applicable to proceedings conducted hereunder.
7. Section 53326 of the California Government Code is amended to provide that:
 - a. the minimum time to election in paragraph (a) thereof is set at 60 days, rather than 90 days; and
 - b. when the legislative body so provides in the resolution of intention (§53321), the resolution of formation (§53325.1) and the resolution setting forth the proposed bonded indebtedness (if any, §53351), then in any election held under paragraph (b) or paragraph (c) of Section 53326, each landowner shall have one vote for each dollar of the maximum proposed special tax (rounded to the nearest whole dollar) for which such landowner would be responsible if the taxes were levied at the maximum initial rates proposed in the resolution of formation. In situations in which the rate and method of apportionment of the special tax provides that the maximum tax rates of the various parcels will change significantly in proportion to each other over time, the City Council may select the maximum tax rates from other than the initial year as the basis for the assignment of votes, in order to best approximate fairness in the sole judgment of the City Council.
 - c. there is no requirement, under paragraph (b), that the Council determine that any facilities financed by the district are necessary to meet increased demands placed upon the City as a result of development or rehabilitation occurring in the district.
8. Section 53327 of the California Government Code is amended to provide that:
 - a. No rebuttal arguments will be permitted; and
 - b. The City Council may appoint the canvassing board; and
 - c. The City Council may appoint the City Clerk as the official to conduct the election.
9. Section 53340 of the California Government Code is amended to provide that the City Council may in all cases act by resolution, and no ordinance shall be required.
10. Section 53364.2 of the California Government Code is not incorporated in this Chapter and shall not be applicable to proceedings conducted hereunder. (Ord. 4845, 1994; Ord. 4834, 1993.)

4.70.040 Procedures for Conducting Landowner Elections for Local Community Facilities Districts.

- A. Prior to the time the City Council calls an election under Govt. Code §53326(b), it shall have received a certification from an engineer, consultant, or member of City staff, based on information certified by the person to be correct or to be the best information reasonably available, setting forth the number of registered voters residing within the Local Community Facilities District as of any date within ninety days prior to the close of the public hearing.
- B. Prior to the time the City Council calls an election under Govt. Code §53326(b) or (c), it shall have received a certification from an engineer, consultant, or member of City staff, based on information certified by the person to be correct or to be the best information reasonably available, setting forth the names and addresses of all owners of land within the Local Community Facilities District, the total number of acres owned by each such owner, and the number of votes each such owner is entitled to cast in accordance with this Chapter. The Council may make changes or corrections to the certification if it has or receives better or more current information than that on which the certification was based.
- C. In calling an election pursuant to §53326(b) or (c), the City Council shall designate the qualified electors and the number of votes each is entitled to cast in accordance with the certification described in paragraph B hereof.
- D. When an election is called pursuant to §53326(b) or (c), and it is proposed to issue bonds, the resolution setting forth the proposed bonded indebtedness (Govt. Code §53351) shall, in addition to the other requirements, specify a deadline for the receipt of ballot arguments by the elections official. Publication under Govt. Code §53352 need be accomplished only once, but it must appear in the newspaper at least 10 days prior to the deadline specified. If no bonds are proposed, the resolution calling the election shall be published in place of the resolution setting forth the bonded indebtedness, and shall include the deadline.
- E. The deadline for submittal of ballot arguments shall be publicly announced by the Mayor or Mayor Pro Tem at the time of the adoption of the resolution calling the election.
- F. The general law governing ballot arguments for city elections shall govern the length of arguments, any limitations on their content, and the procedures for signatures and verification. There shall be no rebuttal arguments.
- G. The City Attorney shall be responsible for preparing the impartial analysis. It shall be delivered to the elections official at least 5 days before the deadline for receipt of ballot arguments, and shall be immediately available for inspection by the public in the office of the elections official.
- H. If the election is to be conducted by mailed-ballot, and if the City Clerk is appointed as the elections official, the ballots, ballot pamphlets, and ballot and return envelopes may be prepared by photocopy or similar process, and no special paper or format is required.

I. In an election pursuant to §53326(b) or (c), each ballot may be cast only by a single individual. Where property is in the sole ownership of a single individual, that owner may cast the ballot for that property. In all other cases, a written appointment of an individual (or any one of a group of named individuals) to cast the ballot in respect of property, as described in paragraph J or K, below, shall be required. Each ballot shall contain a declaration under penalty of perjury under the laws of the State of California that the person executing the ballot is the sole owner of the property to which the votes are assigned, or has been duly appointed to cast the ballot. A ballot will not be counted if this declaration is not properly completed.

J. Where property is in the sole ownership of an individual, that owner may, and all other property owners must, by executing an appointment form approved in advance by the City Council, appoint an individual (or any one of a group of named individuals) to cast the ballot appertaining to their property. The appointment form shall contain a declaration, under penalty of perjury under the laws of the State of California, that the person(s) executing the appointment form is (are) the owner(s) of the property, or is (are) otherwise authorized to act in the premises, which authority must be described on the appointment form as part of the declaration under penalty of perjury. To be effective, the appointment form must be delivered to the elections official prior to or at the time of the delivery of the ballot.

K. Where the property is owned by a corporation, the appointment form may be executed by an authorized officer, or a certified corporate resolution specially making the appointment may substitute for the appointment form. Where the property is owned by a general partnership, any general partner may execute the appointment form. A limited partnership may act by its general partner. A trust may act by a trustee or trustees so authorized under the trust indenture. Where property is owned by more than one person or entity, one owner may, if authorized by the other owners, act for all in executing the appointment form. Otherwise, one owner may execute the appointment form for all of the owners in the absence of objection to the elections official before the closing of the election from any other owner. In that event, the description of authority under penalty of perjury must include the statement that the person executing the appointment form has contacted all of the other owners of the property (or made reasonable efforts to do so in which case those efforts shall be described as part of the declaration under penalty of perjury), and none of the other owners expressed any objection to the execution, by the declarant, of the appointment form.

L. In the event of objections from or disagreements between joint-owners of property, the elections official may cancel the ballot issued and issue new ballots in its stead, dividing the total number of votes from the original ballot as nearly as possible in accordance with the sizes of the various ownership interest represented by the joint-owners (except that in the absence of information provided by the owners or otherwise available to the elections official to enable this determination to be made, the elections official may conclusively presume that all ownership interests are equal).

M. If a ballot, as cast, shows an "X", check, or other mark in the space designated for a "YES" or "NO" vote, and nothing more, all of the votes eligible to be cast by that ballot shall be cast in accordance with the "X", check or mark. If numbers are written in either the "YES" space or the "NO" space, or both, the votes shall be counted in accordance therewith, so long as the total of the numbers written does not exceed the number of votes to which that ballot is entitled.

N. The resolution calling the election shall specify a date and hour limitation for the receipt of executed ballots by the elections official which shall not be less than 14 days after the mailing of the ballots and ballot pamphlets. The date and hour shall also be printed on the ballots. Executed ballots must be physically received by the office of the elections official by the date and time in order to be counted. The time specified need not be 8:00 p.m. Immediately upon the date and time specified, the elections hall be closed.

O. If there has been a waiver of the time limits for the election pursuant to §53326(a), but not otherwise, the elections official shall, upon receipt of all the ballots, immediately declare the election closed.

P. After the election has been closed, the ballots shall be counted and the results reported to the City Council. In the event the City Clerk is the elections official, the clerk and any other two persons appointed by the Council or designated by the Clerk shall count the ballots. The elections official shall, as soon as possible, deliver the results of the count to the City Council. The elections official shall retain the ballots and appointment forms for at least 45 days after the election is closed.

Q. Upon receiving the report from the elections official, the City Council may, by resolution, declare the election results. The date of the election, for purposes of legal challenges or any other purpose, shall be the date when the election was closed. (Ord. 4845, 1994.)