

**Santa Barbara Municipal Code
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 pro-vided 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.)