

Title 5

Business Licenses and Regulations

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Chapter 01

BUSINESS LICENSES GENERALLY

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5.01.010 Definitions.

For the purpose of this Title, and except where otherwise expressly defined in another Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Title, they shall be construed as their ordinary meaning within the context which they are used:

“Business” means professions, trades, and occupations, and all and every kind of calling, whether or not carried on for profit.

“Collector” means the, City Manager, Finance Director, other City officer, and their designees, charged with the administration of this Title.

“Gross receipts” means the total of amounts actually received or receivable from sales, or for the performance of any act or service, for which a charge is made or credit allowed, whether or not such act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in “gross receipts” shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from “gross receipts” shall be the following:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may

later be sold;

3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

4. Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;

5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the collector with the names and addresses of the others and the amounts paid to them;

6. That portion of the receipts of a general contractor which represent payments to subcontractors, provided the general contractor furnishes the collector with the names and addresses of the subcontractors and the amounts paid to each subcontractor, and further provided that such subcontractors secure a license under this Chapter and pay the business license taxes which represent payments received from the general contractor;

7. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;

8. As to a real estate agent or broker, the sales price of real estate sold for the account of others except that portion which represents commission or other income to the agent or broker;

9. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of part 2 of division 2 of the Revenue and Taxation Code of the State of California;

10. As to a retail gasoline dealer, the special motor fuel tax imposed by section 4041 of title 26 of the United States Code if paid by the dealer or collected by him from the consumer or purchaser;

11. That portion of gross receipts which represent business conducted in another jurisdiction and which portion of gross receipts has been taxed by that jurisdiction, provided the business submits proof satisfactory to the collector of such taxation and the payment thereof.

“License” means a general business license issued pursuant to this Title.

“Permit” means an activity-specific permit issued pursuant to this Title.

“Person” means any individual, trust, firm, joint stock company, corporation, partnership, association, city, county, district, state, local agency, or state department, and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations,

partnerships of every kind, clubs, societies, and individuals transacting and carrying on any business in the City other than as an employee.

“Sale” includes the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying, or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.

“Sworn statement” means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

5.01.020 Purpose.

This Title is enacted solely to raise revenue for municipal purposes and all regulatory provisions of this Title are intended to carry out this purpose.

5.01.030 License and Tax Payment Required.

A. It shall be unlawful for any person to commence, establish, maintain or carry on any business enterprise in the City without:

1. First obtaining a license from the City, whether the business enterprise or the person is subject to a City license tax under Section 5.01.140 or not;
2. Paying any license taxes and fees payable prior to the commencement, establishment, or maintenance of any business enterprise in the City; and
3. Fully complying with all other regulations of such business contained in this Chapter, or other regulatory provisions now existing or hereafter to be adopted by the City.

B. This Section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or the state. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the tax imposed by this Code.

5.01.040 Business License Taxes.

Every person who engages in business with the City must pay a business license tax and annual registration tax at the rate set, from time to time, by resolution of the City Council and according to the provisions of Section 5.01.140.

5.01.050 Contents.

Whenever the tax imposed under the provisions of Section 5.01.140 is measured by the number of vehicles, devices, machines, or other pieces of equipment used, or whenever the license tax is measured by the gross receipts from the operation of such items, the collector shall issue only one license. The Collector may issue for each tax period for which the license tax has been paid one (1) identification sticker, tag, plate, or symbol for each item included in the measure of the

tax or used in a business where the tax is measured by the gross receipts from such items.

5.01.060 Posting and Keeping.

A. Whenever identifying stickers, tags, plates, or symbols have been issued for each vehicle, device, machine, or other piece of equipment included in the measure of a license tax, the person to whom such stickers, tags, plates, or symbols have been issued shall keep firmly affixed upon each vehicle, device, machine, or piece of equipment the identifying sticker, tag, plate, or symbol which has been issued therefor at such locations as are designated by the collector. Such sticker, tag, plate, or symbol shall not be removed from any vehicle, device, machine, or piece of equipment kept in use, during the period for which the sticker, tag, plate, or symbol is issued.

B. No person shall fail to affix as required pursuant to this Title any identifying sticker, tag, plate, or symbol to the vehicle, device, machine, or piece of equipment, for which it has been issued at the location designated by the collector, or to give away, sell, or transfer such identifying sticker, tag, plate, or symbol to another person, or to permit its use by another person.

5.01.070 Evidence of Doing Business.

When any person, by use of signs, circulars, cards, telephone book, or newspapers, advertises, holds out, or represents that he or she is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that he or she is in business in the City, and such person fails to deny by a sworn statement given to the Collector that he or she is not conducting a business in the City, after being requested to do so by the Collector, then these facts shall be considered prima facie evidence that he or she is conducting a business in the City.

5.01.080 License Subject to Other Regulations and Fees.

A. Persons required to pay a license for transacting and carrying on any business under this Chapter shall not be relieved from the payment of any fees for the privilege of carrying on any similar or related activity required under any other ordinance of the City and shall remain subject to the regulatory provisions of other ordinances.

B. No person shall be entitled to a business license, and the Collector shall not issue a business license to any person commencing business, unless the person has complied with all applicable provisions of this Code.

C. No license covering any food or drink dispensing establishment, restaurant, pet hospital, pet shop, veterinarian, or kennel services shall be issued until the applicant has obtained clearance from the County Department of Health.

5.01.090 Separate License for Each Place of Business.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in the license. Warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this Chapter shall not be deemed to be separate places of business or branch establishments.

5.01.100 Carrying on Two or More Business at One Location.

If a person conducts two (2) or more types of business at the same location but uses a single set or integrated set of books and records for these businesses, only one license is required for the businesses at that one location.

5.01.110 Posting, Keeping, and Exhibiting Licenses.

A. Each licensee transacting and carrying on a business at a fixed location in the City shall keep each license and permit required by this Title posted in a conspicuous place upon the premises of the business.

B. Any licensee transacting and carrying on business, but not operating in a fixed location in the City, shall keep each license or permit required by this Title upon his person while conducting business in the City and shall display same upon demand.

5.01.120 Records.

All persons subject to the provisions of this Title shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the collector. Such records shall be maintained for a period of at least three (3) years. No person required to keep records under this Section shall refuse to allow authorized representatives of the collector to examine the records at reasonable times and places.

5.01.130 Effect on Other Licensing Laws.

Neither the adoption of this Title nor its superseding of any portion of any other City ordinance shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date of this Title, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

5.01.140 Business License and Permit Fees Set by Resolution of City Council.

All business license and permit fees authorized by the provisions of this Chapter shall be set and established or modified from time to time by resolution of the City Council. The resolution shall identify the specific category of business or type of fee authorized by this Chapter, state the amount of the fee applicable to each such category, and state the effective date of such fees or tax rates.

Prior to passing any such resolution establishing or modifying any fees pursuant to this Section, the City Council shall hold at least one public hearing. Notice of said public hearing shall be published one time in the Ceres Courier or other newspaper of general circulation, circulated and distributed in the City of Ceres, at least ten (10) days prior to the public hearing.

5.01.150 No Vested Right.

No license granted pursuant to this Title shall confer any vested right to any person or business for more than the license period.

Chapter 02

BUSINESS LICENSE APPLICATION

Sections:

- 5.02.010 Application.**
- 5.02.020 Verification of Application.**
- 5.02.030 Information Confidential.**
- 5.02.040 Grant and Denial of Application.**
- 5.02.050 Power of Collector to Extend Time for Filing.**
- 5.02.060 Contents of Business License.**
- 5.02.070 Term of Application.**
- 5.02.080 Renewal of License.**
- 5.02.090 Collector's Power to Enforce.**
- 5.02.100 Display of Business License.**
- 5.02.110 City Manager's Authority—Rules and Regulations.**
- 5.02.120 Time of Mailing.**
- 5.02.130 No License Transferable—Amended License for Changed Location.**
- 5.02.140 Duplicate License.**
- 5.02.150 No Vested Right.**

5.02.010 Application.

An application for a business license under this Title shall be deemed complete upon the submission of the following items to the Collector:

A. An application on a form provided by the Collector setting forth the following information:

1. The exact nature or kind of business for which a license is requested;
2. The place where the business is to be carried on, or the owner's place of residence if the business has no permanent or fixed location;
3. The names, contact information, and a copy of a government-issued identification card of the person(s) owning the business;
 - a. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning the business;
 - b. In the event that the application is made for the issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residences of the officers or partners thereof;
4. The names, contact information, and a copy of a government-issued identification card of

any person(s) operating or managing the business if such person is not also the owner;

5. Any further information which the Collector may require to enable him or her to issue the type of license applied for, and for the Collector to properly determine the amount of the license tax to be paid by the applicant where the amount of the license tax to be paid is measured by gross receipts;

6. For business license renewals, the applicant shall submit a sworn statement setting forth such information concerning the applicant's business during the preceding year as may be required by the Collector to enable him or her to ascertain the amount of the license tax to be paid by the applicant pursuant to Section 5.01.140;

7. A written and dated statement by the applicant swearing to and certifying that all information contained in the application is true and correct, and that he or she has received a copy of this Chapter and understands its contents.

B. An initial application fee to the Collector as set pursuant to Section 5.01.140.

C. The payment of the business license tax, as set pursuant to Section 5.01.140.

D. Annual registration tax.

5.02.020 Verification of Application.

A. No application shall be conclusive as to the matters set forth in the application, nor shall the filing of the same preclude the City from collecting by appropriate action such tax as is actually due and payable under this Title. Each application, and all statements and information contained within each application, may be subject to review, audit and verification by the City Manager, his or her designee, or other authorized employee of the City at any time.

B. All licensees, license applicants, and persons engaged in activity regulated by this Title in the City are required to permit examination of their books, records and papers for the purposes of this Title. The information or data obtained from such examination or audit, or from any application required under this Title, shall be deemed to be confidential, except that such may be used for the purpose of enforcing the provisions of this Title.

5.02.030 Information Confidential.

A. The Collector or any person charged with an administrative duty pursuant to this Chapter is authorized to inspect and examine any and all statements, applications, records and equipment of any person required to obtain a license or pay a license tax, for purposes of enforcement of this Title.

B. It is unlawful for the Collector or any person charged with an administrative duty pursuant to this Chapter, to deliberately or negligently disclose in any manner, information obtained as a result of an investigation of records or equipment of any person required to either obtain a license or pay a license tax, or of any person visited or examined in the discharge of official duty by a City official.

C. It is also unlawful for the Collector or any person charged with administrative duty pursuant to this Chapter, to deliberately or negligently disclose in any manner, information regarding the amount(s) or source(s) of income, profits, losses, expenditures, as set forth in a statement or application filed pursuant to this Chapter.

D. The Collector or a person charged with an administrative duty pursuant to this Chapter, shall take reasonable measures to prevent any person other than the Collector, the applicant(s), or the person charged with an administrative duty, from seeing or examining any statement or application, or a copy of either, or of any book containing information prohibited from disclosure pursuant to this Section.

D. Nothing in this Section shall be construed to prevent:

1. The disclosure to, or the examination of records and equipment by, another City official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Chapter, or collecting taxes imposed hereunder;
2. The disclosure of information to, or the examination of records by, Federal or State officials, or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
3. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayers to the City;
4. The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;
5. The disclosure of the names and business addresses of persons to whom licenses have been issued, and the general type or nature of their business;
6. The disclosure by way of public meeting or otherwise of such information as may be necessary to the City Council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the City for license taxes, or when acting upon any other matter; and
7. The disclosure of general statistics regarding taxes collected or business done in the City.

5.02.040 Grant and Denial of Application.

A. The Collector, or his or her designee, shall grant, deny the application within thirty (30) calendar days of receipt of a completed application. If the Collector fails to take action on the application within thirty (30) calendar days after a properly completed application is stamped as received, the application shall be deemed granted, subject to strict compliance with this Chapter.

B. The Collector, upon reading the application, may deny the application in the following instances:

1. Where the Collector is of the opinion that granting the license would endanger the public health or safety of the City.
2. The Collector or police staff determines that the applicant made fraudulent, false, or misleading statements on the application;
3. The application is incomplete or illegible;
4. The applicant has been convicted of a crime that is substantially related to the qualification, functions, or duties associated with the license or permit and the time for appeal has elapsed, provided, however, an applicant shall not be denied a permit solely on the basis that he or she has been convicted of a crime if he or she has obtained a certificate of rehabilitation under California Penal Code section 4852.01; or
5. The applicant failed to meet any of the requirements of this Chapter and any chapter relevant to the specific business permit at issue.

C. The Collector may modify, add, or delete any license condition to protect the public peace, health, safety, morals, or welfare.

5.02.050 Power of Collector to Extend Time for Filing.

In addition to all other powers conferred upon him or her, the Collector shall have the power to extend the time for filing any required sworn statement or application for a period not exceeding thirty (30) days, and in such case to waive any applicable penalty related to the deadline for filing a sworn statement or application.

5.02.060 Contents of Business License.

Upon approval of a complete business license application, payment of the application fee prescribed in 5.02.010, payment of the prescribed license taxes in 5.01.140, and completion of any other requirement pursuant to this Title, the Collector shall issue to the applicant a business license containing the following information:

- A. The name of the person to whom the license is issued;
- B. The name and description or activity of the business licensed;
- C. The place where such business is to be transacted and carried on;

D. The date of the expiration of such license; and

E. Such other information as may be necessary for the enforcement of the provisions of this Chapter.

5.02.070 Term of Application.

No license shall be issued under this Title for a term in excess of one (1) year. All annual licenses shall expire on April 1 of each year.

5.02.080 Renewal of License.

Any license under this Title may be renewed subject to payment of a renewal fee to the Collector, in an amount as established by resolution of the City Council.

5.02.090 Collector's Power to Enforce.

It shall be within the authority of the Collector to enforce the provisions of this Chapter. The Chief of Police shall assist in the enforcement of this Chapter as may from time to time be required by the City Manager.

5.02.100 Display of Business License.

Any person possessing an issued license certificate who willfully fails to display it shall be guilty of an infraction.

5.02.110 Collector's Authority—Rules and Regulations.

A. The Collector may establish rules and regulations consistent with the provisions of this Chapter.

B. The Collector, in the exercise of the duties imposed upon him pursuant to this Chapter and acting through his or her designees or duly authorized assistants, shall examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Chapter have been complied with.

5.02.120 Time of Mailing.

Whenever the Collector receives any payment, statement, report, request, or other communication after the time prescribed by this Chapter, but is in an envelope bearing a postmark showing that it was mailed prior to the time prescribed in this Chapter the Collector may regard such payments, statement, report, request or other communication as having been timely received.

5.02.130 No License Transferable—Amended License for Changed Location.

A. Licenses issued pursuant to this Title are not transferable.

B. Where a license is issued authorizing a person to carry on a business at a particular place, the licensee may, upon approval of an application and payment of a fee, in an amount as established by the City Council by a resolution, have the license amended to authorize the carrying on of the business at some other location.

C. Transfer of an issued license, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership of the license after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this Section. For the purpose of this Section, stockholders, bondholders, partnerships, or other persons holding an interest in a corporation or other entity as defined in Section 5.01.010 to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

5.02.140 Duplicate License.

A duplicate license may be issued by the Collector to replace any license previously issued under this Chapter which has been lost or destroyed upon the licensee filing a statement of such fact and paying to the Collector a fee for the duplicate license pursuant to Section 5.02.010 of this Chapter.

5.02.150 No Vested Right.

No permit granted pursuant to this Title shall confer any vested right to any person or business for more than the permit period.

Chapter 03

GENERAL PERMIT PROCEDURE

Sections:

5.03.010 General.

5.03.020 Activities Not Requiring a General Business License.

5.03.010 General.

A. Certain activities in the City require permits issued by the City Manager or designee. The following activities require a permit issued by the City:

1. Patrol services;
2. Motion picture and television production;
3. Alcoholic beverages;
4. Junk dealers and scrap metal recyclers;
5. Special events and temporary street closures;
6. Public dances, dancing places, and concerts;
7. Fortunetelling;
8. Taxicabs;
9. Adult entertainment businesses;
10. Garage sales;
11. Massage establishments;
12. Mobile food vendor;
13. Bingo;
14. Firework sales;
15. Ambulances;
16. Commercial Cannabis businesses.
17. Sidewalk vending

B. All requirements of this Chapter are in addition to the requirements of Chapters 5.06 through 5.24.

5.03.020 Activities Not Requiring a General Business License.

A general business license is required prior to obtaining a permit. However, the following activities may obtain activity specific permits without a general business license:

- A. Alcoholic beverages;
- B. Special events and temporary street closures, with exceptions as provided in Chapter 5.09;
- C. Garage sales; and
- D. Taxi drivers.

Chapter 04

ENFORCEMENT OF LICENSES AND PERMITS

Sections:

- 5.04.010 Penalties for Violation of this Title.**
- 5.04.020 Licenses for Unlawful Uses Prohibited.**
- 5.04.030 Suspension and Revocation.**
- 5.04.040 Notice of Decision to Fine or Deny, Suspend, or Revoke License.**
- 5.04.050 Summary Suspension.**

5.04.010 Penalties for Violation of this Title.

A. A new business determined to be operating without a business license or permit shall have ten (10) calendar days to obtain the necessary business license or permit. If a completed and legible application is not received by the end of the ten (10) calendar-day period, the applicant shall be subject to a penalty of fifty percent (50%) of the application fee(s). If the business continues to operate beyond the ten (10) day period, the business may be subject to additional late fees or penalties as determined by resolution of the City Council and may be subject to penalties authorized under this Title or Title 19.

B. Payment for renewal of a business license or permit will be deemed late and subject to a penalty of fifty percent (50%) of the processing fee if the complete application, including all fees, is not received within sixty (60) days of the date of expiration of the immediately preceding license or permit. If the business continues to operate without a valid license, the business may be subject to penalties authorized under this Title, Title 19, or other penalty established by resolution of the City Council.

C. Operating a business without a business license or permit in violation of this Chapter, after written notice of violation and order to cease operations, is deemed to be a public nuisance.

D. Violations of this Title shall be misdemeanors, unless otherwise indicated. Where the conduct constituting the violation is of a continuing nature, each calendar day that the conduct continues shall be deemed a separate and distinct violation.

E. Any person who knowingly makes any false statement or misrepresentation of material fact in any application for a business license, in any report or document required under this Chapter, or to any officer or employee of the City is guilty of an infraction and may be punished as provided for in Title 19.

F. It is unlawful for any person to operate a business after denial of an application, summary suspension of a permit, or after revocation of a license.

G. The City may use one or more of the remedies prescribed in this Chapter and the use of one remedy shall not bar the use of any other remedy for the same violation of this Chapter.

I. Should court action be required to collect any license or permitting fees or penalties, an

additional penalty shall be charged equal to costs of suit, including reasonable attorney's fees. The penalties shall be added to the delinquent fees and they shall become due and payable and collected along with the outstanding fees at the conclusion of the court action.

J. Any person issued an administrative citation due to a violation of this Chapter may appeal the administrative citation pursuant to Title 19.

5.04.020 Licenses for Unlawful Uses Prohibited.

Notwithstanding any provision to the contrary, no license, permit, or land use entitlement shall be issued for any use or business which is unlawful under the terms of any applicable Federal, State, or local law. Notwithstanding Chapter 5.22, this prohibition includes, but is not limited to, uses or businesses that distribute, possess or use any prohibited or unlawful substance under the terms of the Comprehensive Drug Abuse Prevention and Control Act of 1970 ("the Controlled Substances Act," 21 U.S.C. section 801 *et seq.*).

5.04.030 Suspension and Revocation.

A. The Collector reserves the right to revoke any license or permit issued under this Title on good cause. Good cause includes, but is not limited to:

1. Any fraudulent, misleading, or false statement of material fact contained in the application;
2. Violation of this Title, any City ordinance, or any other laws relating to the permitted business;
3. Conviction of the permittee of a felony or of a misdemeanor involving theft, embezzlement, or moral turpitude which has not been expunged;
4. Publishing, utterance, or dissemination of any false, deceptive, or misleading statements or advertisements in connection with the operation of the licensed business;
5. Refusal or failure to provide any records relating to the permitted business which are deemed necessary for the enforcement of this Title to the City Manager or other individual designated to accept the permit application;
6. Conducting the business permitted under this Title in any unlawful manner or in contravention to any rule or regulation adopted by City Council relating to the licensee's business; or
7. Conducting the business in such manner that is injurious to the health, safety or general welfare of the public.

B. If the applicant or permittee submits a timely request for a hearing, the license or permit shall not be revoked until after a hearing before the City Council, which is governed by Chapter 5.05, unless otherwise stated by another provision of this Code or by applicable state or federal law. Upon revocation of a license, the City Council may, in such cases as it deems proper, order

refunded to the person whose license is revoked any prepaid license fees of such person.

5.04.040 Notice of Decision to Fine or Deny, Suspend, or Revoke License.

A. Upon determining the existence of any of the grounds for fines or denial, suspension, or revocation, the Collector shall issue a notice of decision to fine or deny, suspend, or revoke the license or permit. The notice of decision shall state the grounds and reasons upon which the fine or denial, suspension, or revocation is based.

B. The notice of decision shall be mailed to the applicant, licensee, or permittee, by personal service or certified mail, with proof of service attached, at the address stated on the application or permit.

C. The notice of decision shall advise that the fine or denial, suspension, or revocation shall become final unless the applicant or permittee files a written request for hearing within the time period specified pursuant to Section 5.05.060

5.04.050 Summary Suspension.

A. If the Collector, Police Chief, Fire Chief, or other duly authorized personnel finds that a license or permit holder's activity is a public health risk, or subjects any individual, or the community, to imminent danger, he or she may suspend the license or permit, effective immediately, prior to any revocation hearing. The Collector's finding that there is an imminent threat to the public health, safety, or welfare shall be based on one or more of the following:

1. There is an urgent need to take immediate action to protect the public from a substantial threat of serious bodily injury or death existing on or within one hundred fifty (150) feet of the licensed or permitted premises; or
2. There has been a violation of a permit or license condition or other requirement of this Title that creates an imminent danger to the public health, safety or welfare on or within one hundred fifty (150) feet of the licensed or permitted premises; or
3. The licensee or permittee has conducted the licensed or permitted activity in a manner that creates or results in a public nuisance.

B. The summary suspension shall take effect immediately upon service of a written notice of suspension by the Collector. Notice given to the licensee or permittee shall include the following information:

1. The effective date and time period of the summary suspension;
2. The grounds and reasons upon which the summary suspension is based;
3. The licensee or permittee who wishes to challenge the summary suspension may request a hearing before the Collector;
4. The method for requesting a hearing before the Collector; and

5. The notice of summary suspension shall become final unless the Collector receives a written request for a hearing from the permittee or licensee within the time period specified in this Chapter.

C. Summary suspension shall be subject to the appeal procedures established in this Chapter.

Chapter 05

GENERAL BUSINESS LICENSE AND PERMIT APPEALS

Sections:

- 5.05.010 Definitions.**
- 5.05.020 Business License and Permits Appeals–Generally.**
- 5.05.030 Construction with Other Provisions of this Title or Other Applicable Law.**
- 5.05.040 Appealing City Council Decisions.**
- 5.05.050 Right to Appeal.**
- 5.05.060 Timely Filing of a Notice of Appeal.**

5.05.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Applicant” means the affective person or person aggrieved by the decision by a City official regarding the issuance, denial, suspension, or revocation of a business license or permit pursuant to this Title.

“Hearing Officer” means the City official or body who shall consider and make a determination regarding an applicant’s appeal.

“Hearing” means the hearing where the applicant presents testimony, evidence, or witnesses in support of the applicant’s appeal to the Hearing Officer.

“Notice of appeal” means the written document the applicant must submit to appeal a City official’s determination made pursuant to this Title.

5.05.020 Business License and Permits Appeals–Generally.

A. All appeals pertaining to permits and licenses which may be issued, denied, revoked, suspended, or otherwise administered pursuant to this Title shall be governed by this Chapter and the applicable provisions of Title 1.

B. Except for summary suspensions under section 5.04.050, if an appeal is timely filed, the suspension or revocation of the license or permit subject to the appeal shall not be effective until a final decision has been rendered. However, if the City official responsible for determining whether to suspend or revoke a license or permit, determines, in his or her sole discretion, that the suspension or revocation is necessary to protect public health, safety or general welfare the revocation or suspension may take effect immediately. If no appeal is filed pursuant to Section 5.05.060 the effective date of the suspension or revocation shall be the date the period for filing an appeal expires.

5.05.030 Construction with Other Provisions of this Title or Other Applicable Law.

The procedures established by this Chapter shall not apply to decisions regarding the issuance, denial, suspension, or revocation of a business license or permit, if there are specific appeal procedures already established in any other chapter of this Title or any other provision of law that are applicable to the subject matter of the appeal and that are inconsistent with this Chapter. If such procedures exist and are applicable, then those specific procedures shall prevail and be applied for any appeal relating to that administrative decision. In all other instances for appeals regarding business license and permits provided under this Title, the appeals procedure of this Chapter and Title 1 shall apply.

5.05.040 Appealing City Council Decisions.

Decisions by the City Council concerning appeals of the issuance, denial, revocation, or suspension of a business license or permit pursuant to this Chapter, shall not be subject to appeal, except as otherwise provided in this Code, state law, or by judicial proceedings in accordance with applicable law. A decision by the City Council regarding an appeal made to the City Council pursuant to this Chapter shall constitute an exhaustion of administrative remedies as a condition precedent to filing any court action pursuant to the California Code of Civil Procedure section 1094.5.

5.05.050 Right to Appeal.

Only persons who were denied the issuance of license or permit pursuant to this Title, or persons whose valid license or permit was revoked or suspended by a City official pursuant to this Title, may appeal such actions. No right to appeal shall exist if the decision regarding the business license or permit was ministerial in nature, and thus does not involve the exercise of administrative discretion or personal judgment exercised under any of the provisions of this Title.

5.05.060 Timely Filing of a Notice of Appeal.

A notice of appeal must be filed with the City Clerk within fifteen (15) days of the City official's decision to issue, deny, revoke, or suspend a license or permit (hereinafter refer to as the "City official's action" or as the "City official's decision"). A notice of appeal shall not be deemed filed until the applicant pays a reasonable hearing fee in an amount established by the City Council, which may be amended from time to time. The applicant's right to appeal shall terminate if a notice of appeal is not filed within the fifteen (15) days of the City Official's action. A City Official's decision shall become final upon the expiration of the fifteen (15) day period specified in this Section.

Chapter 06

PATROL SERVICES

Sections:

- 5.06.010 Definitions.**
- 5.06.020 Patrol Services; Permit; Application.**
- 5.06.030 Provision of Additional Information.**
- 5.06.040 Patrol Services; Permit; Eligibility.**
- 5.06.050 Patrol Services; Control of Uniforms and Equipment.**
- 5.06.060 Patrol Services; Permit; Requirements.**

5.06.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Patrol services” means a watchperson, guard, patrolperson, or other person employed in protecting persons or property, preventing the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind, or performing the service of such watchperson, guard, patrolperson, or other person for any of such purposes.

“Patrol operator” means an individual or entity providing patrol services.

5.06.020 Patrol Services; Permit; Application.

A. It is unlawful for any person to manage, carry on, or conduct a business of patrol services within the City, without first securing a permit to do so from the Collector and paying a license tax as set pursuant to Section 5.01.040

B. The permit form for Patrol Services shall contain:

1. If the patrol operator has previously operated a patrol services business, the name of the business, dates of operation, and location of the business; and
2. The uniforms, badges, and vehicles, if applicable, the operator will require the employee to use while on duty.

5.06.030 Provision of Additional Information.

A. It shall be unlawful for a patrol operator to hire an individual to provide patrol services unless the individual is registered with the California Bureau of Security and Investigative Services (BSI).

B. Patrol operators shall be required to notify the Ceres Police Department of new employees providing patrol services within five (5) days of hire. It shall be unlawful for an employee to

provide patrol services unless the patrol operator has provided the new hire's name and BSI information to the Ceres Police Department.

C. Patrol operators shall be required to notify the Ceres Police Department if an individual is no longer providing patrol services under the patrol operator's business within five (5) days of termination of patrol services duties with the patrol operator.

5.06.040 Patrol Services; Permit; Eligibility.

The Chief of Police shall make or cause to be made such investigation as is deemed necessary to determine the fitness and moral character of the applicant. In addition to the provisions of Section 5.02.040, no permit shall be issued to the following:

A. Any person under the age of twenty-one (21); or

B. Any person not a citizen of the United States, or who has not lawfully declared his intention to become a citizen;

5.06.050 Patrol Services; Control of Uniforms and Equipment.

A. The Chief of Police shall approve the design and color scheme of any uniforms or badges, or the color and markings of any automotive equipment used by a private police patrol service prior to granting a permit.

B. It is unlawful for any operator or employee of a private patrol service to wear any uniform or badge resembling the uniform or badge of the Ceres Police Department, or to operate a vehicle which, by color or markings, resembles the vehicles used by the Ceres Police Department.

5.06.060 Patrol Services; Permit; Requirements.

Permits required in this Chapter shall be in the form of a card, which shall bear the signature, photograph and fingerprints of the applicant. Such card shall be issued in duplicate, and one (1) copy shall be placed on file with the Police Department.

Chapter 07

JUNK DEALERS AND SCRAP METAL RECYCLERS

Sections:

- 5.07.010 Definitions.**
- 5.07.020 Authority.**
- 5.07.030 Exemptions.**
- 5.07.040 Reporting.**
- 5.07.050 Articles Not to be Sold for Thirty (30) Days–Exceptions.**
- 5.07.060 Seller's Age Limit.**
- 5.07.070 Hours.**
- 5.07.080 Payment.**
- 5.07.090 Immediate Notice of Certain Transactions.**
- 5.07.100 Permit.**
- 5.07.110 Grant of Permit.**

5.07.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Junk” means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, but does not include secondhand and used furniture or pallets.

“Scrap metals and alloys” includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household-generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

“Junk dealer” includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

“Junk yard” means any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept.

“Recycler” means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk as defined under this Section.

5.07.020 Authority.

This Chapter is adopted pursuant to the City's police power under Article XI, Section 7 of the California Constitution and in supplementation of Business and Professions Code sections 21600 through 21609. This Chapter is not intended to supersede the provisions of these statutes. Any conflict that may exist between this Chapter and State law shall be resolved in favor of the latter. Nothing contained in this Chapter shall relieve any person or legal entity of obligations contained in the Business and Professions Code or other provisions or State or local law.

5.07.030 Exemptions.

This Chapter shall not apply to any of the following:

- A. Secondhand furniture merchants;
- B. Pawnbrokers;
- C. Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard;
- D. Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same;
- E. Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard; or
- F. Secondhand clothing merchants and ragpickers.

5.07.040 Reporting.

A. Junk dealers or recyclers shall report to the Police Chief at the Police Department, before twelve o'clock (12:00) noon every weekday and day the junk dealer or recycler business is open for business, on a form provided by the Police Chief, a record of all sales and purchases of the previous twenty-four (24) hours. The report shall contain the information required by this Chapter and any additional information required by the Police Chief as shown on the forms.

B. The report shall at a minimum contain the following information:

1. The name, business name, business address, telephone number, facsimile number, and electronic mail address;
2. The place and date of each sale or purchase of junk made in conduct of his or her business as a junk dealer or recycler;
3. The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business;

4. The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business;
5. A full and complete description of the item or items of junk purchased or sold, including the item type, quantity, length, diameter, size, brand, model, manufacturer, and identification number;
6. A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document;
7. The fingerprint of the right-hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact fingerprinted of the person from whom junk is received.

5.07.050 Articles Not to be Sold for Thirty (30) Days—Exceptions.

Each article received by a junk dealer shall be kept and not be resold, melted down, altered or repaired for a period of thirty (30) days after receipt of the article; provided, however, that if an article is inspected by an officer of the law during the thirty (30) days and the officer issues a written permit for the sale of the article, it may thereafter be sold or otherwise disposed of.

5.07.060 Seller's Age Limit.

It is unlawful for any junk dealer or recycler to purchase, or otherwise acquire, any junk from any person known, or reasonably should be known by the junk dealer or recycler, to be under the age of eighteen (18) years.

5.07.070 Hours.

It is unlawful for any junk dealer or recycler to conduct his or her business as a junk dealer within the City limits between the hours of seven o'clock (7:00) P.M., of one day and seven o'clock (7:00) A.M., of the next day.

5.07.080 Payment.

It is unlawful for any junk dealer or recycler to make payment to any person in a form other than paper draft or check for the purpose of junk except when the total amount paid to the person is less than ten dollars (\$10.00).

5.07.090 Immediate Notice of Certain Transactions.

Every junk dealer or recycler shall immediately notify the Police Department by telephone, or other means likely to reach the Police Department without delay, of the sale or purchase, or attempted sale or purchase, of any junk which reasonably appears to be used only by governments, utilities, railroads, or for specific purposes, such as guardrails, manhole covers, high voltage transmission lines, historical markers, cemetery plaques, light poles, and bleachers.

5.07.100 Permit.

A. Any person desiring a permit, or to renew a permit, hereunder shall make application to the

Police Department upon a form provided by the City. In addition to the information in Section 5.02.010, the applicant shall also provide the following information:

1. The name under which, and the place where, the applicant has conducted a similar business within twelve (12) months immediately preceding the date of the application, if applicable;
2. If the business is to be engaged in by a partnership, association or corporation, the application for a license shall be made by the general manager thereof, or by one having the authority of a general manager. In such case, the application shall state the true name of the organization, the date of its organization, its type, the location of its principal place of business, the names and addresses of its officers, or, in the case of a co-partnership, the names and addresses of all the partners;
3. In accordance with Business and Professions Code sections 12703 and 12733, the applicant shall attach to the application documentation to the satisfaction of the Police Department that the applicant holds a current and active California Weighmaster License. A copy of the applicant's current Weighmaster License shall be displayed in a prominent location at each location where the applicant conducts business;
4. Acknowledgment that the applicant read Penal Code Section 496a, which shall be prominently set forth within the application in bold type; and
5. Photographs and fingerprints of all the individuals who are to be actively engaged in the management of the business or in buying or otherwise acquiring junk for the business for which the license is requested.

B. In the event any person other than the permittee, after the permit has been granted, is engaged in the management of the business or in buying or otherwise acquiring such junk, the permittee shall furnish to the Police Department on request the photograph and fingerprints of such person. No permit shall be issued until any such demand has been complied with, and any permit that has been issued shall be suspended or revoked if the permittee does not, within a reasonable time, comply with the provisions of this Section.

5.07.110 Grant of Permit.

A. Upon submission of a complete and legible application for the license under this Chapter, the application shall be immediately referred to the Community Development Department, and to the Police Chief for investigation concerning the applicant's business and character of the applicant. These departments shall, after investigation, file a report upon the application designating whether or not the applicant is a proper person to be granted the license applied for. No applicant shall be reported as a proper person to be granted a license under this Chapter unless and until it appears that the applicant's conduct or proposed conduct of the business does and will comply with all applicable laws and ordinances, including but not limited to those relating to the public health and to zoning. The departments shall be allowed sixty (60) days from the date of receiving a completed application within which to file their respective reports to the City Manager.

B. The City Manager or his or her designee shall grant or deny the application within twenty (20) days of receiving the department reports. If the City Manager fails to take action on the application within twenty (20) calendar days after a properly completed application is stamped as received, the application shall be deemed granted, subject to strict compliance with this Chapter.

Chapter 08

ALCOHOLIC BEVERAGES

Sections:

5.08.010 Application.

5.08.010 Application.

A nonprofit entity requesting a waiver pursuant to Section 9.07.020 shall submit an application with the Chief of Police providing the following:

- A. The name, address, and phone number of the applicant;
- B. The location, date, and times for which the permit is requested;
- C. Nature of the event;
- D. The name, address, and phone number of the individual or organization representative hosting the event; and
- E. Any other information the City Manager or Chief of Police, may require.

Chapter 09

SPECIAL EVENTS AND TEMPORARY STREET CLOSURES

Sections:

- 5.09.010** **Definitions.**
- 5.09.020** **Applicability.**
- 5.09.030** **Permit for Temporary Street Closure.**
- 5.09.040** **Business License Required for Certain Sales.**
- 5.09.050** **No Obligation on City.**
- 5.09.060** **Singular License for Multiple Events in 12-Month Period.**
- 5.09.070** **Exemptions.**
- 5.09.080** **Events on Private Commercial Property.**
- 5.09.090** **Special Event Permit–Application.**
- 5.09.100** **Time for Filing.**
- 5.09.110** **Application Deemed Complete.**
- 5.09.120** **Review of License.**
- 5.09.130** **License – Conditions.**
- 5.09.140** **Departmental Service Charges and Reimbursement of Costs to the City.**
- 5.09.150** **Police Protection.**
- 5.09.160** **Public Conduct During Temporary Street Closures.**
- 5.09.170** **Insurance and Indemnity Requirements.**
- 5.09.180** **Prohibited Activities.**
- 5.09.190** **Permit Denial.**
- 5.09.200** **Notice to Applicant of Action on Application.**
- 5.09.210** **Revocation or Suspension.**

5.09.010 **Definitions.**

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Cul-de-sac” means a street or passage closed at one end;

“Expressive activity” means activity or other conduct that is protected by the First Amendment of the United States Constitution.

5.09.020 **Applicability.**

This Chapter shall apply to any amusement, concession, carnival, flea market, event, parade, and event necessitating temporary street closure within the City.

5.09.030 **Permit for Temporary Street Closure.**

No person shall close any portion of a public street or alley to vehicular or pedestrian traffic for the purpose of conducting a celebration, block party, street dance, local special event or for other purposes, without first obtaining a permit from the Collector as provided in this Chapter. This

Section shall not apply to those governmental agencies which are otherwise authorized to close streets. No person shall violate any of the terms of a permit for temporary street closure, nor in any manner interfere with the progress or orderly conduct of a temporary street closure.

5.09.040 Business License Required for Certain Sales.

In the event that a charitable solicitation, collection, or gratuity is involved, or food, beverages, or other merchandise is to be sold, Chapter 5.02 shall be complied with prior to issuance of a permit under this Chapter.

5.09.050 No Obligation on City.

Issuance of a permit pursuant to this Chapter does not obligate or require the City to provide City services, equipment, or personnel in support of an event, although the City may provide such services, equipment, or personnel if such are reasonably available, and the event organizer makes provisions to reimburse the City for the cost, at the discretion at the City.

5.09.060 Singular License for Multiple Events in 12-Month Period.

Persons who desire to conduct, operate, maintain, organize, advertise, sell, or furnish tickets to more than one (1) special event in a twelve (12) month period may submit a single application for an annual permit covering all events specified in the application. The application shall include the information required by Section 5.02.010 for each event.

5.09.070 Exemptions.

An individual or entity is not required to seek a permit under Section 5.09.090 for the following activities:

- A. An event conducted in or on residential property in a residential zone so long as the event conforms to other provisions of this Code;
- B. Any activity otherwise constituting a special event conducted on private property that the Collector determines meets all the requirements Section 5.09.080;
- C. Events involving expressive activity, including, but not limited to, lawful picketing.

5.09.080 Events on Private Commercial Property.

A. A special event conducted on private commercial property requires a permit pursuant to this Chapter if the event:

1. Involves the use of public property or facilities or will have a substantial impact on traffic, public property, or facilities in a way that may require the provision of City public services in response, as determined in the Collector's sole discretion;
2. Creates noise in excess of the standards set forth in Chapter 9.04;
3. Involves the use of any pyrotechnic device as defined in Health and Safety Code section 12526, as amended or superseded;

4. Involves the construction or installation of any temporary or permanent tents, canopies or other structures; provided, that such construction or installation requires a permit from the City's fire or planning department; and

5. Involves the use of any exotic or non-domesticated animals, or mechanical amusement rides.

B. An individual seeking an exemption from the permitting requirements under this Section shall submit a statement containing the following to the Collector:

1. The name, phone number, and address of the applicant;

2. The date, time, and location of the special event;

3. If located on private property, signed approval from the property owner acknowledging application for a special event; and

4. A sworn statement and any supporting evidence that the event meets the requirements of Subsection A.

The Collector's determination concerning an exception to the special event permit pursuant to this Section shall be final, but subject to appeal under Title 1.

5.09.090 Special Event Permit–Application.

A. An application for a special event permit shall be made to the Collector in writing, on a form furnished by the Collector, and signed by the applicant under penalty of perjury. If the application is filed by an organization, the application shall be prepared, signed under penalty of perjury, and filed by an officer of such organization who is not less than eighteen (18) years of age.

B. The application for a special event permit shall contain the following information:

1. The name, address, and telephone number of the applicant, the event organizer, an alternative person who may be contacted if the event organizer is unavailable, and all persons having an interest or position of management or control in such organization;

2. If located on private property, signed approval from the property owner acknowledging application for a special event;

3. If the applicant is an organization, the name, address, and telephone number of the organization and the authorized head of the organization shall be provided. The person designated as the applicant by an organization shall provide written authorization from the organization verifying such designation;

4. The name, address, and telephone number of the person who will be present and in charge on the day(s) of the special event;

5. A description of the nature or purpose of the special event for which the permit is requested and an estimate of the maximum number of persons who will be attending the special event;
6. Date(s) and estimated starting and ending time(s) of the special event;
7. Location of the special event, including its boundaries, the street or other public property, and the specific area or areas that will be utilized in connection with the proposed special event, or, if on private property, the business name, street address, and telephone number at which the special event will be conducted;
8. The type and estimated number of animals, equestrian units, animal-drawn conveyances, floats, vehicles, bicycles, motorized displays, and identifiable marching units such as bands, color guards, and drill teams to attend;
9. An estimated number of persons who will attend;
10. Locations of assembly and dispersal of all persons and units listed in subsections (8) and (9);
11. The provision or operation of first aid or emergency aid stations at the special event;
12. The provision or operation of sanitary facilities, including handicap accessible sanitary facilities;
13. Whether any food or beverages, including alcoholic beverages, will be sold at the special event; a separate permit may be necessary to serve alcohol at an event;
14. Whether charity, gratuity, or offering will be solicited or accepted;
15. The type of security or other arrangements that will be provided to ensure that participants are properly directed; and = to ensure the prevention of unlawful conduct by participants and attendees;
16. Anticipated parking needed and parking plan for the special event;
17. A proposed plan for seating for the special event, if applicable, and the maximum legal occupancy of the proposed premises, if applicable;
18. Whether sound amplification equipment will be used and a plan for control of noise, including, but not limited to, the noise generated by amplification equipment, motors, and other equipment that may affect nearby premises, with special attention to prevention of noise nuisance to nearby residences, if any, subject to the noise standards set forth in Chapter 9.04;

19. A detailed floor plan and site plan of the premises showing the building interior and exterior grounds, including parking spaces, amusement ride location, seating arrangements, dance floor area, bar location, fire exits, and the dimensions of each portion with the layout of the special event, when applicable;

20. A trash and litter collection and off-site disposal plan;

21. The manner of providing notice of the permit conditions to the permit participants and those businesses or residents who may be directly affected by the conduct of the special event;

22. Evidence of liability insurance to the satisfaction of the Collector; and

23. Such other information pertaining to public health and safety that the applicant may wish to include.

C. The application for special events, such as parades or public assemblies, which require temporary full or partial street closures, shall, in addition to the above information, contain the following information:

1. The assembly point for the special event and the time at which people or units of the special event will begin to assemble and the location of the disbanding area;

2. The proposed route, or such intersections or blocks in which such closure occur, including the maximum length of the special event in miles or fractions of miles;

3. The date, and beginning and ending hours of such temporary street closure;

4. The purpose of the temporary street closure;

5. Whether parking is requested to be restricted or prohibited during such closure;

6. Whether such temporary street closure will occupy all or only a portion of streets or intersections involved;

7. Whether a permit has been requested or obtained from any other jurisdiction in which the activity shall commence, terminate or occur in part; and

8. Other such information as the Chief of Police or other Director deems reasonably necessary in order to carry out his or her duties under this Chapter.

5.09.100 Time for Filing.

A completed application shall be filed not less than thirty (30) days in advance of the proposed date of the event. Failure to file within such period is sufficient grounds for denial of a permit. The City Manager may waive the minimum thirty (30) day filing period and accept an application filed within a shorter period if it is found that unusual circumstances or good cause

exists and no unreasonable burden upon the City or its citizens will be created thereby.

5.09.110 Application Deemed Complete.

The City shall notify an applicant, in person or by certified mail, within five (5) business days if the application is missing any information necessary for the City to make a determination. An application will be deemed complete if the City does not provide notice to the applicant within five (5) business days. Notwithstanding the Collector's acceptance of a completed application, no special event date shall be considered confirmed or take place until a special event permit is issued pursuant to this Chapter.

5.09.120 Review of Permit.

Upon receipt of the application and application fee, the Collector shall refer it to the appropriate City departments, as he or she deems necessary from the nature of the application, for review, evaluation, investigation, and recommendation. Each City department shall also determine the estimated number of hours of service that will be incurred by each department in connection with the permit.

5.09.130 Permit – Conditions.

The Collector may impose conditions on any permit issued pursuant to this Chapter to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful, or impermissible uses, protect the safety of persons and property, and to control vehicular and pedestrian traffic in and around the venue.

5.09.140 Departmental Service Charges and Reimbursement of Costs to the City.

A. Applicants shall pay the City for all City departmental service charges incurred in connection with, or due to, the applicant's activities under the permit.

B. If City property is destroyed or damaged due to the applicant's use, event, or activity, the applicant shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

C. Departmental service charges will be established by resolution of the City Council, and will reflect the City's reasonable cost of providing personnel on an hourly basis at rates established in accordance with City personnel rules and regulations and conditions contained within memorandum of understanding between the City and its employees.

D. At least two (2) days prior to a special event permitted under this Chapter, the applicant shall pay to the City a deposit in an amount sufficient to cover the total estimated City departmental service charges identified pursuant to this Section that are anticipated to be incurred by the City in connection with the permit. The deposit shall be paid in cash or other adequate security, as determined by the City Manager. An applicant may appeal, pursuant to Chapter 5.05, the amount of the deposit determined under this Section.

E. The City shall submit final invoices and billings for departmental service charges to the applicant no later than twenty (20) working days after the expiration date of the permit. If the deposit is less than the final charges, the applicant shall pay the difference to the Collector within

ten (10) working days of being invoiced for such charges from the City. If the deposit is more than such final charges, the City shall refund the difference to the applicant within sixty (60) days after the event.

F. Collection of costs shall be governed by Title 19.

5.09.150 Police Protection.

A. The Collector shall consult with the Chief of Police regarding additional police protection requirements. The Chief of Police shall base this decision on the size, location, duration, time, and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. The speech content of the event shall not be a factor in determining the amount of police protection necessary. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection for the temporary street closure is deemed necessary by the chief of police, he or she shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police protection deemed necessary by the Chief of Police at the sole expense of the applicant.

B. Persons seeking a temporary street closure for the sole purpose of public issue speech protected under the First Amendment are not required to pay for any police protection provided by the City.

5.09.160 Public Conduct During Temporary Street Closures.

A. No person shall unreasonably hamper, obstruct or impede, or interfere with any event or activity which has secured a valid permit pursuant to this Chapter, or with any person, vehicle or animal participating or used in connection with the event or activity.

B. No driver of a vehicle shall drive between the vehicles or persons comprising a temporary street closure when such vehicles or persons are in motion and are conspicuously designated as a temporary street closure.

C. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a temporary street closure. The Chief of Police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

5.09.170 Insurance and Indemnity Requirements.

A. For all special events subject to the requirements of this Chapter, the Collector shall require as a condition of the issuance of a permit that the applicant obtain, furnish proof of, and maintain, a policy of insurance issued by an insurance company authorized to do business in the state of California. The insurance policy shall be endorsed to name the City of Ceres and its elected and appointed boards, officers, agents, and employees as an additional insured, and shall provide that any other insurance maintained by the City of Ceres shall be in excess of, and not contributing to, the insurance coverage provided to the City of Ceres under the applicant's policy. The minimum limits of liability shall conform to a schedule which shall be adopted by a separate resolution of

the City Council; provided, however, that in no case shall the minimum limits of liability be lower than one million dollars (\$1,000,000), combined single limits, per occurrence and in the aggregate.

B. The applicant shall also be required to sign an indemnity agreement in a form approved by the City Attorney, which shall expressly provide that the applicant agrees to defend, protect, indemnify and hold the City, its officers, employees, volunteers and agents free and harmless from and against any and all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged acts or omissions of applicant, its officers, agents or employees, in connection with the permitted event or activity; and the permit shall expressly provide that the applicant shall, at applicant's own cost, risk and expense, defend any and all claims of legal action that may be commenced or filed against the City, its officers, employees, volunteers and agents, and that the applicant shall pay any settlement entered into and shall satisfy any judgment that may be rendered against the City, its officers, employees, volunteers and agents as a result of the alleged acts or omissions of applicant or applicant's officers, agents, or employees in connection with the uses, events or activities under the permit. If an applicant provides proof that the insurance obligations, pursuant to subsection (A) of this Section, provide contractual liability coverage for any obligations contemplated by the indemnity provisions in this Section, the City agrees not to enforce the indemnity agreement against the applicant.

5.09.180 Prohibited Activities.

A. No person shall engage in any event or activity that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property.

B. No person shall participate in any temporary street closure while carrying or possessing any length of metal, lumber, wood, or similar material for purposes of displaying a sign, poster, plaque or notice, unless such object is one-fourth inch (1/4") or less in thickness and two inches or less in width, or if not generally rectangular in shape, such object shall not exceed three-fourths inch (3/4") in its thickest dimension.

C. No person shall participate in any temporary street closure while carrying any sign, poster, plaque, or notice, whether or not mounted on a length of material as specified in subsection (E) of this Section, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, or cardboard material.

D. It shall be unlawful for any person participating in a temporary street closure to utilize sound amplification equipment at decibel levels that exceed those limits imposed by Chapter 9.04.

E. It shall be unlawful for any person to ride, drive, or cause to be ridden or driven any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the permit.

5.09.190 Permit Denial.

A. A permit may be denied by the Collector when, from a consideration of the application or from such other information as may otherwise be obtained, the Collector finds that one or more

of the following circumstances exist:

1. The applicant has knowingly and with intent to deceive made any false, misleading or fraudulent statements of a material fact in the application for a permit or in any other document required pursuant to this Chapter;
2. The application has failed to meet the standards in this Chapter, has failed to pay in advance any fee required or refuses to agree to such conditions as are imposed in the permit;
3. The event or activity is proposed to be located, or is located, in or upon a premises, building, or structure, which is hazardous to the health or safety of the employees or patrons of the premises, business, activity, or event, or the general public, under the standards established by the California Building Standards or Fire Codes, or other applicable codes, as set forth in Title 15;
4. The event or activity is proposed to be located, or is located, in or upon a premises, building, or structure, which lacks adequate on-site parking for participants attending the proposed event or activity under the applicable standards set forth in this Code;
5. The event or activity is scheduled to occur at a location and time in conflict with another event or activity scheduled for the same day or weekend, where such conflict would adversely impact the City's ability to provide adequate City services in support of other scheduled events or scheduled government functions;
6. The event will substantially disrupt the orderly and safe movement of public transportation, or other vehicular and pedestrian traffic, around its location;
7. The event will require the diversion of public safety or other City employees from their normal duties, to unreasonably reduce adequate levels of service or municipal functions to any other portion of the City;
8. The concentration of persons, animals, or vehicles will unreasonably interfere with the movement of police, fire, ambulance, and other public safety or emergency vehicles, equipment, or personnel;
9. The event or activity: (a) will have a substantial adverse impact on the health and safety of the general public, residents, or businesses within a five hundred (500) foot radius of the event; or (b) will violate the City's noise standards set forth in Chapter 9.04;
10. The event or activity will take place in an area of the City, or on any public right-of-way scheduled for maintenance, construction or repair prior to the submission of the application for the event and either (a) the conduct of the event would interfere with such maintenance, construction, or repair; or (b) the maintenance, construction, or repair would represent a threat to the health or safety of the participants in the event;
11. The ability of persons to enter and exit residential or business properties impacted by the

event will be unreasonably impaired considering factors such as the duration, size, and scope of the event;

12. The proposed use, event, or activity will have a significant adverse environmental impact;

13. The applicant has violated condition(s) of a previous permit issued pursuant to this Chapter for the same or similar event within the prior thirty-six (36) months; provided, that the City notified the applicant in writing of any such violation within sixty (60) days of the violation;

14. The conduct of the event or activity is reasonably likely to cause injury to persons or property;

15. The event or activity will lack adequate sanitation and other required health facilities; and

16. The event or activity will not have sufficient police protection.

B. When the grounds for denial of an application are based on any of the circumstances specified in subsection (A) of this Section, and those circumstances can be corrected by altering the date, time, duration, route, location, or other detail of the special event or temporary street closure, the Collector shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of conditions for permit issuance. The conditions imposed shall provide only for such modification of the special event as are necessary to alleviate the circumstances set forth in subsection (A) of this Section.

5.09.200 Notice to Applicant of Action on Application.

Within fifteen (15) business days of receipt of a complete application for a permit, the Collector shall provide notice to the applicant of the Collector's decision on the application by written notice, together with a list of conditions imposed if the application has been granted or, if the application has been denied, the specific factual reason for the denial pursuant to Section 5.09.190. The Collector shall also provide notice of the decision to the City Council.

The notice shall inform the applicant of his or her right to appeal the decision or any conditions imposed if the application has been granted, and shall state the last date on which such an appeal may be filed, which shall be the third business day after the date on which the notice was delivered personally, by certified mail, or via facsimile to the applicant. Any appeal of the Collector's decision on an application under this Chapter shall be subject to the appeal provisions set forth in Title 1 of this Code.

5.09.210 Revocation or Suspension.

A. A permit issued under this Chapter shall be revoked or suspended by the Collector or the Chief of Police if he or she finds that one or more of the following conditions exists and have not been corrected by the applicant after reasonable notice of the condition's existence has been given:

1. The permit is being used to conduct an activity different from that for which it was issued;
2. That one or more of the conditions listed in 5.09.190 exists;
3. That the activity is being conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit pursuant to Section 5.09.130 or fails to conform to the plans and procedures described in the application;
4. The applicant violates or attempts to violate any federal, state, or local laws and regulations; or
5. The special event is being conducted in a fraudulent or unlawful manner, or in a manner which endangers the public health or safety.

B. Such suspension shall become effective immediately upon order of the Collector or Chief of Police and shall remain in effect until the applicant has corrected the violation or the permit has expired on its own terms. Revocation shall not be effective until notice is provided pursuant to Section 5.04.040.

C. In the event a permit is revoked pursuant to the provisions of this Section, another permit shall not be granted to the applicant within twelve (12) months after the date of such revocation.

D. The Collector's or Chief of Police's determination to revoke or suspend a permit shall be based upon written findings, and shall be subject to appeal as set forth in Chapter 5.05, if the revocation or suspension occurs prior to the date(s) of the special event.

E. No license shall be revoked until after a hearing before the City Council, which is governed by Chapter 5.05. Upon revocation of a license, the City Council may, in such cases as it deems proper, order refunded to the person whose permit is revoked any prepaid permit fees of such person.

Chapter 10

Mobile Food Vending from Motor Vehicles

Sections:

- 5.10.010 Purpose.**
- 5.10.020 “Mobile Food Vendor” Definition.**
- 5.10.030 Permitted Sales.**
- 5.10.040 General Development and Operational Standards for Mobile Food Vendors.**
- 5.10.050 Additional Operational Standards for Ice Cream Trucks.**
- 5.10.060 Permit Application.**
- 5.10.070 Decision and Limitations.**
- 5.10.080 Transfer of Permit.**

5.10.010 Purpose.

The purpose of this Chapter is to establish a permitting and regulatory program for mobile food vendors operating from motor vehicles. The provisions of this Chapter allow the City to encourage small business activities while still permitting regulation and enforcement of unpermitted mobile food vending activities to protect the public’s health, safety, and welfare.

5.10.020 “Mobile Food Vendor” Definition.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Mobile food vendor” means a person who displays, prepares, or processes food on a motor vehicle for the purpose of selling food to a consumer.

5.10.030 Permitted Sales.

Mobile food vendors shall acquire mobile food vendor permit issued under the provisions of this Chapter, and any necessary business license as required by this Title.

5.10.040 General Development and Operational Standards for Mobile Food Vendors.

Unless otherwise exempt, the following general and operational standards shall apply to all mobile food vendors (including ice cream trucks):

- A. All mobile food vendors shall obtain any required permits from the City, County, and the State, if applicable.
- B. All mobile food vendors shall comply with the Vehicle Code and Health and Safety Code.
- C. Mobile food vendors shall not operate in an unsafe manner, including but not limited to impeding on- or off-site vehicle circulation and obstructing the view of pedestrians by motorists.
- D. Operations on Private Property.

1. Notwithstanding any other provision of this Chapter, mobile food vendors may operate on private property; provided, that prior to conducting such business operations, they have the authorization from the property owner upon which the operations are occurring; and provided further, that they have the authorization from any other building-enclosed restaurant located within a three hundred fifty (350) foot radius of the operations, as measured from the primary customer entrance of the restaurant; and provided further, that neither such restaurant nor the City has articulated a public safety concern due to traffic, parking, or otherwise, arising out of such mobile food vendor's operations. Vendor must be able to demonstrate property owner authorization as provided in this section.
2. Mobile food vendors shall not use or permit use of parking spaces on the site (e.g., for customer queuing, tables, chairs, portable restrooms, signs, and any other ancillary equipment) if doing so will adversely affect the required off-street parking available for the primary use(s) of the site during peak periods as determined by the Community Development Director.
3. Mobile food vendors shall provide adequate lighting to ensure customer safety either on the vehicle or at the location of the vehicle during business hours.

E. Operations in Public Right of Way.

1. Mobile food vendors shall not operate within three hundred fifty (350) feet of any building-enclosed restaurant as measured from the primary customer entrance of the restaurant, except when the mobile food vendor has written authorization from all building-enclosed restaurants that are within that same three hundred fifty (350) foot radius.
2. Mobile food vendors shall not stop, stand, or park in any clear vision triangle or no parking zone.
3. Mobile food vendors shall not operate within three hundred fifty (350) feet of a public or private school in which children at or below the twelfth (12th) grade level are enrolled, and which is in session.
4. Mobile food vendors shall maintain a clear path of travel on the sidewalk pursuant to the Americans with Disabilities Act free of customer queuing, signage, and all portions of the vehicle for the clear movement of pedestrians.

5.10.050 Additional Operational Standards for Ice Cream Trucks.

Standards for ice cream trucks shall be governed under Vehicle Code section 22456. In addition, development and operational standards in Section 5.01.040 shall apply to ice cream trucks. To the extent that Section [above] is more restrictive, it shall supersede the requirements of Vehicle Code section 22456.

5.10.060 Permit Application.

An applicant for a mobile food vendor's permit shall submit an application to the City Manager.

The application shall include, among other things, the following:

- A. The true name of the applicant, together with the names of all persons directly or indirectly interested in the conduct of such business, including all members of any firm or partnership. A corporate applicant shall list the officers, directors and principal owners, including all owners of ten percent (10%) or more of the corporate stock;
- B. The phone number and address of the applicant;
- C. Whether the applicant has at any time been convicted of a felony or of any offense involving moral turpitude or has been convicted of any narcotics violation;
- D. Whether or not any permit or license heretofore granted to applicant to engage in any business or to do any act within the City or elsewhere has been revoked or denied, and, if so, the circumstances surrounding the revocation or denial;
- E. The location at which the applicant proposes to conduct the business;
- F. The type of food, wares, or merchandise to be sold, the proposed hours of operation, and a description, drawing or picture of the vehicle which is to be operated at the location;
- G. Such additional information bearing on the identity and character of the applicant or applicant's employees, the location proposed or the nature of the business as the City Manager may require; and
- H. A nonrefundable application fee pursuant to Section 5.01.140.

5.10.070 Decision and Limitations.

- A. The City Manager may deny an application for a mobile food vendor's permit if the applicant has been convicted of one of the type of category of crimes enumerated in Section 5.10.060 of this Chapter or, if in his or her opinion, the business is to be located or operated under circumstances where it would tend to cause a law enforcement problem or create a public nuisance or where the granting of the permit would not be compatible with the public health, safety, or welfare, or would not comply with the provisions of this chapter or would be contrary to the public interest. The City Manager shall deny the permit if the application does not meet the location requirements or any other requirements of this this chapter.
- B. The City Manager shall have the authority to limit the area which a mobile food vendor may cover, to approve the design of any mobile food vendor's vehicle, and to specify the exact location on a block where the mobile vendor shall operate, taking into account pedestrian and vehicular traffic flow and the other standards imposed by this article. The City Manager may impose such additional reasonable terms and conditions upon the operation of the business as he or she deems necessary or desirable under the circumstances to protect the health, safety, and well-being of the public. The City Manager may require all food to be located on the mobile food vendor's vehicle and may prohibit the location of any food on sidewalks.

C. If, for a period of ten (10) or more consecutive days between May 1st and September 30th, or sixty (60) or more consecutive days between October 1st and April 30th, a person with a mobile food vendor's permit fails to maintain or operate their business, then the permit shall be deemed abandoned and shall be revoked.

D. The mobile food vendor's permit shall be attached to and prominently displayed on the mobile food vendor's vehicle.

E. Prior to the issuance of any permit under this Chapter, the applicant shall pay to the City any business operations tax required by Section 5.01.140.

F. Decisions of the City Manager relating to the granting or denial of an application for a mobile food vendor's permit shall be rendered in writing not less than sixty (60) days after the date of application. Copies of decisions shall be mailed to the applicants not later than five (5) days after the date of decision, and shall be mailed to the address of any business, conducted on the street level, which is located within one hundred (100) feet of the site of the mobile food vendor's permit.

5.10.080 Transfer of Permit.

A mobile food vendor's permit is not property and shall have no value. Permits may not be sold, leased, assigned, hypothecated or transferred in any manner to another person, firm, partnership, or corporation, including new owners in a corporation or partnership, except that a mobile food vendor holding a valid permit may transfer said permit to another location where the mobile food vendor wishes to operate with the consent of the City Manager.

Chapter 11

SALES OF VEHICLES, VESSELS, AND OTHER PERSONAL PROPERTY

Sections:

- 5.11.010 Definitions.**
- 5.11.020 Display of Vehicles and Other Property for Sale Prohibited.**
- 5.11.030 Exceptions.**
- 5.11.040 Evidence That Property is Offered for Sale.**
- 5.11.050 Evidence of Violation.**
- 5.11.060 Dismissal When Bona Fide Sale Has Been Made.**
- 5.11.070 Violations.**

5.11.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Other personal property” means any type of tangible personal property which is offered for sale.

“Vehicle” means a vehicle as defined in Vehicle Code section 670, as the same now reads or may hereafter be amended.

“Vessel” means a vessel as defined in Vehicle Code section 9840(a), as the same now reads or may hereafter be amended.

5.11.020 Display of Vehicles and Other Property for Sale Prohibited.

No person shall park or place a vehicle, vessel, or other personal property upon a public or private street, parking lot, or any public or private property for the purpose of displaying such vehicle, vessel, or other personal property for sale, hire or rental.

5.11.030 Exceptions.

A. Section 5.11.020 shall not apply if the real property is properly zoned by the City for such purpose, the vendor is duly licensed to transact such business at that location, and the vendor owns or has lawful possession of said real property or has written permission in his possession from the owner or person in lawful possession of the real property to vend the personal property at the location.

B. Section 5.11.020 shall not prohibit any person from parking or placing a vehicle, vessel or other personal property on private residential property for the purpose of displaying the same for sale, hire, or rental, provided the property displayed on is owned by the person who owns or occupies the residential property on which it is displayed for sale.

C. Section 5.11.020 shall not prohibit any person from placing a vehicle or vessel advertised

for sale on the public street immediately adjacent to the private residential property belonging to or occupied by the owner of such vehicle or vessel, so long as such advertising sign is not more than ten inches by twelve inches (10" × 12"). The person advertising the vehicle or vessel for sale must be the registered owner of the vehicle or vessel as per Vehicle Code sections 505 and 9853.

5.11.040 Evidence That Property is Offered for Sale.

The parking or placing of any vehicle or vessel or other personal property with a sign or other advertising device thereon or proximate thereto, indicating such vehicle or vessel or other personal property is for sale, hire or rental, shall constitute prima facie evidence that such vehicle, vessel, or other personal property was parked or placed for the purpose of displaying same for sale, hire or rental.

5.11.050 Evidence of Violation.

In any prosecution for violation of this Chapter against the registered owner of a motor vehicle or vessel, proof that the particular vehicle or vessel described in the complaint was in violation of this Chapter, together with proof that the defendant named in the complaint was at the time the registered owner of the vehicle or vessel, shall constitute prima facie evidence that the registered owner of the vehicle or vessel was the person who placed the vehicle or vessel at the point where, and for the time during which, the violation occurred. The foregoing provisions shall apply only when the notice procedure as established by Vehicle Code sections 40202 et seq., as the same now reads or may hereafter be amended, has been complied with.

5.11.060 Dismissal When Bona Fide Sale Has Been Made.

Any charge under this Chapter shall be dismissed when the person charged has made a bona fide sale or transfer of the vehicle or vessel and has delivered possession thereof to the purchaser and has complied with the requirements of Vehicle Code section 5602(a) or (b), or section 9905(a) or (b), prior to the date of the alleged violation and has advised the court of the name and address of the purchaser, and of the date of sale.

5.11.070 Violations.

A violation of this Chapter shall constitute an infraction.

Chapter 12

FORTUNETELLING

Sections:

- 5.12.010 Definitions.**
- 5.12.020 Purpose and Intent.**
- 5.12.030 Applications.**
- 5.12.040 Referral of Application to Other Departments.**
- 5.12.050 Issuance, Refusal, Revocation, or Suspension of Permit.**
- 5.12.060 Filing and Fee Provisions.**
- 5.12.070 Permit Renewal Fees.**
- 5.12.080 Sale, Transfer or Change of Location.**
- 5.12.090 Operating Requirements.**
- 5.12.100 Register and Permit Number of Employees.**
- 5.12.110 Identification Cards.**
- 5.12.120 Employment of Persons Under the Age of Eighteen Prohibited.**
- 5.12.130 Inspection.**
- 5.12.140 Employment of Persons Without Permits Unlawful.**
- 5.12.150 Exceptions.**
- 5.12.160 Violation; Penalty.**

5.12.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Applicant” means a person who is required to file an application for a permit under this Chapter, including a fortuneteller, individual owner, managing partner, managing officer of a corporation, or any other operator, manager or employee of a fortunetelling establishment.

“For pay” means a fee, reward, donation, loan or receipt of anything of value.

“Fortunetelling” means telling of fortunes, forecasting of futures, or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult, psychic power, faculty, force, clairvoyance, clairaudience, cartomancy, psychology, psychometry, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading, telepathy, or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, gypsy cunning or foresight, crystal gazing, oriental mysteries or magic, of any kind or nature.

“Fortunetelling establishment” means any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any of the activities defined in subsection (c) of this Section.

“Fortuneteller” means any person who, for any consideration whatsoever, engages in the practice

of fortunetelling as defined in subsection C of this Section unless otherwise excepted.

“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

5.12.020 Purpose and Intent.

The purpose and intent of the City Council in enacting this Chapter is to protect the health, welfare, and safety of the public at large and patrons of fortunetelling establishments by ensuring that the services provided by those establishments are, to the greatest extent possible, free from fraud, corruption, vice, trickery and other criminal influences. It is also the purpose and intent of the City Council to minimize the impact upon local neighborhoods caused by concentration of fortunetelling establishments in localized areas and to provide that such establishments are located in areas designated to serve broader portions of the community.

5.12.030 Applications.

A. Every application submitted to the Chief of Police shall include the following information:

1. The type of permit for which application is made;
2. The name, including all aliases, by which the applicant is or has ever been known;
3. The applicant's present residence address and the residence addresses and dates thereof for the three (3) years immediately preceding the date of the application;
4. Written proof that the applicant is at least eighteen (18) years of age;
5. The applicant's height, weight, color of eyes and hair;
6. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;
7. The applicant's social security number and driver's license number or California identification card number;
8. The fortunetelling or similar business license or permit history of the applicant including:
 - a. Whether such person has previously operated in this or another city or state under a license or permit,
 - b. Whether such person has had such license or permit revoked or suspended and the reason therefor,
 - c. The business activity or occupation of such person subsequent to such action of suspension or revocation;

9. Whether the applicant has ever been convicted of theft, fraud or crimes involving moral turpitude or any felony involving such offenses unless a period of not less than five (5) years shall have elapsed since the date of conviction or the date of release from confinement for such offenses, whichever is later. The applicant may any certificates of rehabilitation from a court of competent jurisdiction;

10. The location at which the permittee is to be employed;

11. Every application for a permit to operate a fortunetelling establishment shall also set forth the exact nature of the services to be provided and the proposed place of business and facilities therefor;

12. Every application for a permit to operate a fortunetelling establishment shall give the name and address of the owners and lessors of the real property upon or in which the business is to be conducted;

13. If an applicant is a corporation, the application shall also set forth the name of the corporation exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding five percent (5%) or more of the stock of the corporation;

The corporation shall designate one of its officers to act as the responsible managing officer of the fortunetelling establishment. Such officer shall complete the application form as an individual applicant under this Chapter;

14. If the applicant is a partnership, the application shall also set forth the name and residence address of each of the partners, including limited partners;

The partnership shall designate one of the partners to act as the managing partner of the fortunetelling establishment. Such a partner shall complete the application form as an individual applicant under this Chapter. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply;

15. Such other identification and information necessary to disclose the truth of matters specified required to be set forth in the application pursuant to subparagraphs (#1-#14) above; and

16. Every application for a permit shall be verified by affidavit, or by declaration or certification, dated and signed by the applicant, under penalty of perjury as provided in the California Code of Civil Procedure.

5.12.040 Referral of Application to Other Departments.

A. All applications for permits for fortunetelling establishments shall be referred by the Chief of Police to the Planning Commission of the City, who shall determine if a proper use permit has been obtained for the proposed location of the use. The Planning Commission shall report to the Chief of Police any conditions placed upon the use permit. No permit shall be issued without a use permit having first been obtained from the Planning Commission.

B. The Chief of Police shall require an applicant to have his or her fingerprints taken and may require such additional information as may be necessary to establish the identification of the applicant. In addition to permit fees as set forth under Section 5.01.140 to be paid, the applicant shall pay for the cost of fingerprinting and processing. The fee for this expense shall be the current fee charged by the Department of Justice of the State of California.

5.12.050 Issuance, Refusal, Revocation, or Suspension of Permit.

The Chief of Police shall issue all permits after the filed application has been reviewed and approved by Chief of Police. For good cause the Chief of Police may refuse, revoke, or suspend a permit for a fortunetelling establishment, for any of the reasons in Section 5.02.040 in addition to the for the following reasons. The Chief of Police shall state the reasons in writing and deliver his or her written determination to the applicant or permittee:

A. That the operation as proposed by the applicant permitted, will not or does not comply with all applicable laws, including but not limited to ordinances relating to planning, zoning or other applicable laws and regulations which the departments named in this Chapter have a responsibility to administer, and particularly the provisions of this Chapter related to minimum distances between fortunetelling establishments;

B. That the applicant or any other person who will be directly engaged in the management and operation of a fortunetelling establishment has been convicted of any of the offenses enumerated in subsection A9 of Section 5.12.030, or convicted of an offense outside of the State of California that would have constituted any of the described offenses if committed within the State of California.

C. A permit may be issued to any person convicted of any of the offenses enumerated in subsection A9 of Section 5.12.030 if such conviction occurred more than five (5) years prior to the date of the application; or

D. That any of the provisions of this Chapter have been violated or that the permittee or fortuneteller is engaged in any conduct at a fortunetelling establishment which violates any State or local law, or ordinance, or that such permittee or any other person acting on the permittee's behalf has refused to allow any duly authorized building inspector or police officer of the City to inspect the premises or the operations therein pursuant to the provisions of this Chapter.

E. Any person whose permit is denied or revoked may not apply for a permit to operate a fortunetelling establishment or practice fortunetelling in the City for a period of one year from the date of such revocation.

5.12.060 Filing and Fee Provisions.

A. Every person who proposes to maintain, operate or conduct a fortunetelling establishment in the City shall file an application with the Chief of Police upon a form provided by the City and shall pay a filing fee an amount established by the City Council which shall not be refundable, which may be amended by the City Council from time to time by resolution, and which shall be on file with the City Clerk and the Chief of Police.

B. Every person who proposes to engage in the practice of fortunetelling shall file an application with the Chief of Police upon a form provided by the City and shall pay a filing fee of an amount set by the City Council, which shall not be refundable, and which may be amended by the City Council from time to time by resolution, and which shall be on file with the City Clerk and the Chief of Police.

C. A permit when issued shall state whether it is for a fortunetelling establishment or for a fortuneteller.

D. Fortunetelling establishment applicant(s) must post with the City Clerk, a surety bond in the principal sum amount of ten thousand dollars (\$10,000.00) executed as surety by a good and sufficient corporate surety authorized to do a surety business in the State of California and as a principal by the applicant. The form of the bond shall be approved by the City Attorney and shall be given to insure good faith and fair dealing on the part of the applicant and as a guarantee of indemnity for any and all loss, damage, theft, or other unfair dealings suffered by any patron of the applicant during the term of the permit,

5.12.070 Permit Renewal Fees.

Permits issued under the provisions of 5.12.050 of this Chapter shall be valid for a period of one (1) year from the date of issuance and may be renewable annually.

A. An application for the renewal of a fortunetelling establishment permit shall be accompanied by a filing fee of eighty-five dollars (\$85.00) which shall not be refundable, and which may be amended from time to time by the City Council by resolution and which shall be on file with the City Clerk and Chief of Police, and shall contain the same information as in subsection A of Section 5.12.030, excluding therefrom subsections A4, 6, 7, and 8.

B. An application for the renewal of a fortuneteller permit shall be accompanied by a filing fee of an amount set by the City Council, which shall not be refundable, and which may be amended from time to time by the City Council by resolution and which shall be on file with the City Clerk and Chief of Police and shall contain the same information as in subsection A of Section 5.12.030, excluding therefrom subsections A4, 6, 7 and 8.

C. All applications for renewal shall be referred to the Chief of Police, who may require an applicant to have his or her fingerprints taken and to furnish such additional information as may be necessary to establish the identification of the applicant. In addition to any permit fees as required pursuant to Section 5.12.060 to be paid, the applicant shall pay for the cost of fingerprinting and processing. The fee for this expense shall be the current fee charged by the Department of Justice of the State of California.

5.12.080 Sale, Transfer or Change of Location.

A. Upon the sale, transfer, or relocation of a fortunetelling establishment, the permit therefor shall be null and void. However, upon the death or incapacity of the permittee, a fortunetelling establishment may continue in business for a reasonable period of time, not to exceed three (3) months, to allow for an orderly transfer of the business.

B. No permittee shall operate under any name or conduct his business under any designation or at any location not specified in the permit.

C. Any fortuneteller may have a valid and unexpired permit transferred for use at any other fortunetelling establishment upon written application to the Chief of Police accompanied by a nonrefundable fee of an amount set by the City council, which fee may be amended from time to time by resolution of the City council.

5.12.090 Operating Requirements.

A. No fortunetelling establishment or any portion of a building in which the fortunetelling establishment is located, shall be used for residential purposes.

B. Fortunetelling establishments may be open for operation only between the hours of seven o'clock (7:00) A.M. and twelve o'clock (12:00) A.M., inclusive, of each day, or as otherwise permitted by applicable zoning regulations.

C. No fortunetelling establishment shall be located closer than one thousand feet (1,000') to any other licensed fortunetelling establishment, nor shall any fortunetelling establishment be located closer than one thousand feet (1,000') from any church or school facility.

5.12.100 Register and Permit Number of Employees.

Every permittee of a fortunetelling establishment must maintain a register of all fortunetellers employed on the premises and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer of the City.

5.12.110 Identification Cards.

The Chief of Police shall provide each fortuneteller, or other employee granted a permit with an identification card which shall contain a photograph and the name and permit number of said fortuneteller or employee which must be displayed at all times during the hours of employment.

5.12.120 Employment of Persons Under the Age of Eighteen Prohibited.

It shall be unlawful for any individual owner, managing partner, managing officer, or other person in charge of any fortunetelling establishment to employ any person who is not at least eighteen (18) years of age.

5.12.130 Inspection.

The Chief of Police shall from time to time cause an inspection to be made of the premises of each fortunetelling establishment in the City for the purpose of determining compliance with the provisions of this Chapter.

5.12.140 Employment of Persons Without Permits Unlawful.

It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of a fortunetelling establishment to employ any person who is not in possession of a valid, permit to practice fortunetelling within a fortunetelling establishment.

5.12.150 Exceptions.

A. The provisions of this Section shall not apply to any person solely by reason of the fact that he or she is engaged in the business of entertaining the public by demonstrations of mind-reading, mental telepathy, thought conveyance, or the giving of horoscopic readings, at public places and in the presence of and within the hearing of other persons and at which no questions are answered, as part of such entertainment, except in a manner to permit all persons present at such public place to hear such answers.

B. No person shall be required to pay any fee or take out any permit for conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, or clairvoyant (hereinafter collectively referred to as a “minister”) from any bona fide church or religious association maintaining a church and holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith; provided that:

1. Except as provided in subsection B3 hereof, the fees, gratuities, emoluments, and profits thereof shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association, as defined in this subsection B.
2. The minister holding a certificate of ordination from a church or religious association, as defined in this subsection B, shall file with the Chief of Police a certified copy of the minister's certificate of ordination with the minister's name, age, street address, and phone number in this City where the activity set forth in this subsection B is to be conducted.
3. Such bona fide church or religious association, as defined in this subsection B, may pay to its ministers a salary or compensation based upon a percentage basis, pursuant to an agreement between the church and the minister which is embodied in a resolution and transcribed in the minutes of such church or religious association.

5.12.160 Violation; Penalty.

A violation of any provision of this Chapter shall be punishable as an infraction, except where provisions of this Title specifically make such violation a misdemeanor.

Chapter 13

TAXICABS

Sections:

- 5.13.010 Definitions.
- 5.13.020 Purpose and Scope.
- 5.13.030 Exception.
- 5.13.040 Rules and Regulations of Council and Authority of City Manager.
- 5.13.050 Taxi Owner's License Application Fee.
- 5.13.060 Investigation of Application.
- 5.13.070 Grant of Taxi Owner's License Application.
- 5.13.080 One Taxi Owner's License Permitted for Each Person or Entity.
- 5.13.090 Taxi Owner's License – Nontransferable.
- 5.13.100 Taxi Driver's Permit Required.
- 5.13.110 Taxi Driver's Permit Application.
- 5.13.120 Renewal of Taxi Driver's Permit.
- 5.13.130 Notification Requirements.
- 5.13.140 Taxi Driver's Permit Contents.
- 5.13.150 Granting of Taxi Driver's Permit.
- 5.13.160 Denial of Taxi Driver's Permit.
- 5.13.170 Duration of Validity of Taxi Driver's Permit - Employer.
- 5.13.180 Display of Taxi Driver's Permit.
- 5.13.190 Copies of Permits.
- 5.13.200 Suspension and Revocation of Permits and Licenses.
- 5.13.210 Certificate Required.
- 5.13.220 Rules and Regulation for Operation of Taxicabs.
- 5.13.230 Conditions Deemed to Make Taxicabs Unsafe or Unsuitable.
- 5.13.240 Vehicle Inspection.
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- 5.13.270 Taximeter.
- 5.13.280 Accessible Taxi Service.
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- 5.13.310 Substitute Taxicabs.
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- 5.13.340 Taxicab Stands Authorized.
- 5.13.350 Termination of Employment.
- 5.13.360 City Held Harmless.
- 5.13.370 Annual Operating Statement.
- 5.13.380 Investigation of Complaints.

5.13.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this

Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Certificate of public convenience and necessity” means a certificate issued by the California Public Utilities Commission for certain transportation services.

“Driver” means every person in charge of operating any taxicab, as defined under Subsection E, either as agent, employee or otherwise, of owner, as owner, or under the direction of the owner as herein defined.

“Driver’s permit” means the permission granted by the City Manager, or designee to a person to drive a taxicab upon the streets of the City.

“Owner” means every person having use or control of any taxicab, as defined under subsection #, whether as owner, lessee or otherwise.

“Street” means any place commonly used for the purpose of public vehicular travel.

“Taxicab” means every automobile or motor-propelled vehicle of a distinctive color or colors, such as is in common usage in this country for taxicabs, and/or operated at rates per mile, or for waiting time, or for both, and equipped with a taximeter, used for the transportation of passengers for hire over the public streets of the City and not over a defined route and irrespective of whether the operations initiate or extend beyond the boundary limit of the said City, and such vehicle is routed under the direction of such passenger.

“Taxi driver’s permit” shall mean a permit issued under Section 5.13.110

“Taximeter” means any mechanical instrument, appliance, device or machine, by which the charge for hire of a taxicab is mechanically calculated, either for distance traveled or time consumed, or both, and upon which instrument, appliance, device or machine such charge is indicated by figures.

“Taxi owner’s license” shall mean a permit issued under Section 5.13.050

5.13.020 Purpose and Scope.

A. The purpose of this Chapter is to protect the public health, safety, and welfare by regulating the operation and licensing of taxicabs and the drivers of taxicabs as authorized by Vehicle Code section 21100.

B. All taxicabs authorized to operate within the City shall be properly licensed with the California Department of Motor Vehicles, and shall further comply with all State and local laws and regulations relating to the licensing and commercial operation thereof, including this Chapter. No taxicabs operated in the City shall be rented to any owner or driver unless such owner or driver has obtained the appropriate permits pursuant to this Chapter.

C. This Chapter is limited in scope to the regulation of taxicabs. This Chapter is not intended to

regulate vehicles or businesses required to obtain a certificate of convenience and necessity issued by the California Public Utilities Commission, nor does this Chapter apply to any passenger transportation services owned and operated by a public agency.

5.13.030 Exception.

The provisions of this Chapter shall not apply to animal-drawn vehicles, or taxicabs licensed by another municipality when operating in the City in response to a request to convey a person from other such municipality to the City.

5.13.040 Rules and Regulations of Council and Authority of City Manager.

A. All drivers and owners of taxicabs shall be governed by rules and regulations established by the City Council.

B. The City Manager shall have power to grant the permits and licenses in this Chapter to persons who have complied with the provisions under this Chapter and any other rules and regulations adopted by the City Council. The City Manager and/or designee shall have the power to suspend or revoke any permit for failure, neglect, or refusal to comply with this Chapter, or any rule or regulation of the City Council appertaining to taxicabs.

5.13.050 Taxi Owner's License Application Fee.

Any person or entity seeking to operate as a business owner shall apply in the manner set forth in this Section. A written application for a Taxi Owner's License shall be made to the City Manager and must be signed by the owner of the taxi business. In addition to the information required by Section 5.02.010, the application shall set forth the information and accompanying documentation required in Section [permit application], in addition and including, but not limited to, the following:

A. Name and address of the location from which the business will be operated;

B. Fictitious business name of the applicant, if any;

C. A description of any motor vehicle which the applicant proposes to use, including its trade name, motor and serial number, license plate number, year and model;

D. Description of the color scheme, insignia, trade style, and any other unique characteristics of the taxicab design and placement of City required markings and company markings;

E. Signed copy of the company's policies regarding driver conduct and discipline, including suspension and termination;

F. Type of dispatch service provided;

G. Location of dispatch center, including phone number and customer service or management contact information;

H. The number of taxicabs that the applicant requests to have in service under his or her

business;

I. Any facts that the applicant believes tend to demonstrate that public convenience and necessity require the operation of such vehicles;

J. A schedule of proposed fees;

K. A copy of the insurance policy covering each taxicab for public liability and property damage;

L. The names and addresses of each driver to be employed together with proof that each driver holds a valid chauffeur's license issued by the State of California; and

M. Such further information as the City Manager may require.

5.13.060 Investigation of Application.

Before any application is acted upon by the City Manager, the City Manager or designee shall make an investigation and shall report his or her findings in writing on the following:

A. The demand of the public for additional taxicab service.

B. The adequacy of existing mass transportation and taxicab service.

C. The financial responsibility and experience of the applicant.

D. The number, kind and type of equipment and the color scheme to be used.

E. The effect which such additional taxicab service may have upon traffic congestion and parking.

F. Such other relevant facts as the City Manager may deem advisable or necessary.

5.13.070 Grant of Taxi Owner's License Application.

A. A Taxi Owner's License may be granted only if the City Manager or designee determines that:

1. The applicant has submitted satisfactory proof that he or she will comply with the provisions of this Chapter;

2. The applicant has not violated this Chapter three (3) or more times within the last three (3) years;

3. The applicant is not otherwise subject to denial, suspension, or revocation under Section 5.04.030;

4. Additional taxicab service in the City is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and conform to

the provisions of this Chapter and the rules promulgated by the City Council;

5. Approval would not pose an unreasonable risk to the public safety or welfare; and

6. Each driver of such taxicab has a valid California driver's license and a valid driver's permit issued by the City, within the limits and in the manner set forth in this Chapter.

B. No license shall be issued to any person who shall not have fully complied with all of the requirements of this Chapter necessary to be complied with before the commencement of operation of the proposed service.

5.13.080 One Taxi Owner's License Permitted for Each Person or Entity.

No person, partnership, cooperative, corporation, firm, association, or other entity of whatever type may possess or operate more than one Taxi Owner's License at any one time.

5.13.090 Taxi Owner's License – Nontransferable.

A. No Taxi Owner's License issued under this Section shall be transferable, either by contract or operation of law, without the written consent of the City Manager.

B. Any person or entity who wants to transfer a Taxi Owner's License shall submit a written application to the City Manager or his or her designee. The application shall be in writing, signed by the business owner, and shall set forth all the information required in the permit transfer application form and accompanying documentation. The application shall not be accepted without payment of the Taxi Owner's License fee.

C. The City Manager or designee shall make a final determination on the Taxi Owner's License transfer application within thirty (30) days after the filing of the application.

D. The Taxi Owner's License transfer will not be valid or recognized by the City unless the current holder or transferor of the Taxi Owner's License submits along with the Taxi Owner's License transfer application a notarized statement to the City Manager surrendering his or her Taxi Owner's License and all rights to the taxi company name.

E. A Taxi Owner's License transfer will not be valid unless all other requirements of this Chapter for operating the business have been met.

5.13.100 Taxi Driver's Permit Required.

It is unlawful for any driver to operate any taxicab in the City without a valid Taxi Driver's Permit to do so as provided in this Chapter. However, drivers are not required to procure a business license under this Title.

5.13.110 Taxi Driver's Permit Application.

Each application for a Taxi Driver's License shall be in writing, duly certified under oath, and it, together with a copy thereof, shall be filed with the City Manager, who shall transmit the original to the City Clerk, who shall file the same. In addition to the requirements of Section 5.02.010, each Taxi Driver's License application shall include the following:

- A. The name, birth date and address of the driver;
- B. The name and address of each of the driver's employers during the preceding three (3) years;
- C. Whether or not a taxicab driver's permit issued to the driver by the City or any other jurisdiction has ever been revoked and, if so, the circumstances of such revocation;
- D. The name and address of the owner by whom the driver is to be employed as a driver;
- E. The applicant's experience in the operation of an automobile and transportation of passengers;
- F. A copy of the applicant's California commercial driver license, if any;
- G. A copy of the applicant's complete driver's history report from the State Department of Motor Vehicles;
- H. The applicant must demonstrate proficient knowledge of the traffic laws of the State, and demonstrate his or her ability to operate a taxicab, all to the satisfaction of the City Manager;
- I. Fingerprints, taken by the Ceres Police Department;
- J. Two photographs of the driver (size one and one-half inch by one and one-half inch) taken by the City, one to be filed with the application and one to be permanently attached to the driver's permit when issued;
- K. Satisfactory proof that the insurance required by this Chapter covers the driver when operating the taxicab; and
- L. Additional information as the City Manager may require.
- M. Any fees as provided by Section 5.01.140,

5.13.120 Renewal of Taxi Driver's Permit.

Renewal fees for Taxi Driver's Permits shall be used solely to defray the costs of the City's investigations and reports required under this Chapter.

5.13.130 Notification Requirements.

A. Any accident arising from or in connection with the operation of a taxicab which results in death or injury to any person, or in damage to any vehicle, or to any property in an amount exceeding the sum of one hundred dollars (\$100.00), shall be reported within twenty-four (24) hours from the time of occurrence to the Police Department.

B. A taxi driver holding a permit issued under this Chapter shall at all times keep the City notified of his or her current address. He or she shall notify the City in writing within ten (10) days of any address change.

C. Taxi vehicle drivers are required to report all Vehicle Code violations to the Finance Department within five (5) calendar days of receiving a citation.

5.13.140 Taxi Driver's Permit Contents.

Upon approval of an application for a Taxi Driver's Permit, the City Manager shall issue a permit to the applicant which shall bear the name, address, ethnicity, age, signature, and photograph of the applicant. The Taxi Driver's Permit shall also state the name of the employer of the applicant.

5.13.150 Granting of Taxi Driver's Permit.

A. A Taxi Driver's Permit may be granted only if the City Manager or designee determines that the applicant:

1. Submitted a complete and legible application;
2. Submitted satisfactory proof that he or she will comply with the provisions of this Chapter;
3. Possesses a valid California driver's license;
4. Has not operated a vehicle in violation of this Chapter three (3) or more times in the past three (3) years;
5. Would not pose an unreasonable risk to the public safety or welfare;
6. Is not otherwise subject to denial under Section 5.02.040; and
7. Has ensured that he or she will only operate a vehicle which has received a valid vehicle permit for a business owner who has received a valid Taxi Owner's License.

B. No permit shall be issued to any person who shall not have fully complied with all of the requirements of this Chapter necessary to be complied with before the commencement of operation of the proposed service.

5.13.160 Denial of Taxi Driver's Permit.

The City Manager may deny any Taxi Driver's Permit application if it is determined that:

- A. The applicant has physical or mental limitations which, in the discretion of the City Manager or his or her designee, renders such applicant incompetent to operate a taxicab;
- B. The applicant has been found guilty of or has been convicted of more than four (4) moving traffic violations within three (3) years of the date of application, or has been found guilty of or has been convicted of more than two (2) moving traffic violations within one (1) year of the date of application;

- C. The driver's license of the applicant has been suspended or revoked;
- D. The driver is not in compliance with the provisions of this Chapter or State or Federal regulations governing the operation of a motor vehicle;
- E. The driver has received a positive result in any random test for controlled substances or alcohol within the prior twelve (12) calendar months;
- F. Granting the permit would violate any law or would endanger the public health, safety, or welfare;
- G. The driver is under the age of eighteen (18); or
- H. The driver has had a taxi driver's permit or taxi owner's license revoked in any jurisdiction for just cause.

5.13.170 Duration of Validity of Taxi Driver's Permit - Employer.

Every Taxi Driver's Permit issued under this Chapter shall be valid only so long as the driver continues in the employ of the owner indicated on the Taxi Driver's Permit. Upon the termination of such employment or affiliation with the owner, the driver shall surrender the driver's permit to the City Manager within two (2) days of the termination.

5.13.180 Display of Taxi Driver's Permit.

The Taxi Driver's Permit shall be posted in full view of the passenger at all times while said driver is operating the vehicle. Every driver's permit shall show the photograph of the driver, driver's permit number, name of the business owner by which the driver is employed, if any, a telephone number of the business and a City telephone number such that passengers may communicate complaints. This notice and information must be provided verbally upon the request of the passenger.

5.13.190 Copies of Permits.

On receipt of a license or permit application under this Chapter, the City Clerk shall immediately forward a copy thereof to the City Manager.

5.13.200 Suspension and Revocation of Permits and Licenses.

A. Any permit or license granted under the provisions of this Chapter may be suspended immediately by the City Manager or designee for any of the following reasons:

1. The taxi driver is operating a taxicab without a valid driver's license.
2. The vehicle: (1) has physical defects or is damaged and may cause harm or injury to persons or property or impairs the routine operation of the vehicle; (2) has mechanical defects or malfunctions; (3) cannot be operated safely; (4) is not registered with the State of California; or (5) the vehicle does not meet the requirements of this Chapter. Such vehicle shall not be allowed to operate until all violations are corrected and proof of correction has been provided in writing to the City's Finance Department.

3. Any business owner or driver adjudged to have violated this Chapter three (3) times or more in the same calendar year shall have his or her Taxi Owner's License or Taxi Driver's Permit suspended.

4. Any business owner, taxi driver, or vehicle that does not have the proper insurance as required by this Chapter shall have his or her Taxi Owner's License or Taxi Driver's Permit immediately suspended;

5. A business owner that employs of drivers without a Taxi Driver's Permit pursuant to this Chapter shall his or her Taxi Owner's License suspended;

6. A Taxi Owner's License or Taxi Driver's Permit may be suspended if the applicant fails to comply with all local, state, and federal laws, including this Chapter;

7. A Taxi Owner's License or Taxi Driver's Permit may be suspended for any cause which, in the opinion of the City Manager or designee, makes it contrary to the public health, safety, or welfare for the license to be continued;

8. A Taxi Driver's Permit may be suspended if he or she is no longer able to demonstrate either proficient knowledge of the traffic laws of the state of California and the City;

9. A Taxi Driver's Permit may be suspended for any violation of laws relating to the operation of a motor vehicle including but not limited to reckless driving, driving under the influence of alcohol or controlled substances, or other violations indicating that a driver is not competent to operate a vehicle for hire in a consistently safe manner;

10. A Taxi Driver's Permit may be suspended for any motor vehicle accident resulting in injuries to persons or property caused by the culpable act or omission of the driver or business owner;

11. A Taxi Owner's License or Taxi Driver's Permit may be suspended for any failure to pay any judgment for damages arising out of the unlawful or negligent operation of any vehicle for hire;

12. A Taxi Owner's License or Taxi Driver's Permit may be suspended for the existence of any fact which, at the time of application, would have caused the City to deny the application, whether or not such fact existed at the time of the application or occurred thereafter; or

13. Drivers receiving four (4) or more points within a twelve (12) month period may be considered a negligent driver, and his or her Taxi Driver's Permit may be suspended.

B. If the City Manager has not been notified within ten (10) days that the violations have been corrected, the City may issue a notice of revocation and proceed as set forth in this Chapter. During the time that the permit is suspended, it shall be unlawful for the permittee to exercise

any of the rights granted under this Chapter.

C. No license shall be revoked until after a hearing before the City Manager, which is governed Chapter 5.05. Upon revocation of a license, the City Manager may refund to the person whose license is revoked any prepaid license fees of such person.

D. In the event of such suspension or revocation of any permit or license issued pursuant to this Chapter, the holder of the permit shall immediately surrender it to the City Manager.

5.13.210 Certificate Required.

A driver may not operate a taxicab unless the taxicab has been certified pursuant to this Chapter.

5.13.220 Rules and Regulation for Operation of Taxicabs.

The following rules and regulations shall be observed by all individuals operating taxicabs governed under this Chapter:

A. Every taxicab shall have visible from the outside a schedule of all rates and charges, established by resolution of the City Council, in a minimum of one (1) inch numeral and letter size on each side of the taxicab. One additional schedule of all rates and charges shall be posted in full view of the backseat passenger while seated in the taxicab;

B. No charge shall be made by any driver or owner in excess of the posted rates established pursuant to resolution of the City Council, which may be amended from time to time by resolution of the City Council.;

C. No taxicab shall be operated unless kept in a clean, sanitary, and mechanically safe condition;

D. The interior of every taxicab shall be thoroughly cleaned at least once in every twenty-four (24) hours;

E. Unoccupied taxicabs shall not be operated over public streets in search of, or soliciting prospective passengers for hire;

F. The driver of any taxicab shall transport passengers in a safe and expeditious manner to their destination by the most direct and accessible route;

G. No owner or operator of any taxicab shall indulge in unfair competition or commit fraud upon the public. The City Manager, or designee, shall determine what constitutes unfair competition or fraud;

H. Every taxicab shall have in the passenger compartment, securely attached and centered two (2) inches above the door handle of each rear passenger door, or as near thereto as feasible, a sign with the number of such taxicab and the name of the taxicab business, in Grade 2 Braille;

I. No driver of any taxicab shall accept, take into his vehicle or transport any larger number of passengers than the rated seated capacity of his vehicle, and seat belts shall be provided for each

occupant of the vehicle;

J. Drivers shall provide receipts to passengers upon the passenger's request;

K. An individual engaging a taxicab shall have the exclusive right to the full and complete use of the taxicab and it is unlawful for the driver to solicit or carry additional individuals without the prior permission of the passenger;

L. The driver of a taxicab shall not display any device indicating that the taximeter is recording when such taxicab is not actually employed;

M. The driver of a taxicab while carrying passengers or under employment, except on an hourly basis or contract basis, shall not display the flag or device affixed to such taximeter in such position as to denote that he or she is employed at a rate of fare different from that to which he or she is entitled;

N. All taxicabs shall operate under a two-way radio dispatch system;

O. Taxicab drivers shall offer and provide reasonable assistance, if requested, to passengers in entering and leaving the vehicle. Drivers shall confirm that passengers are securely seated, their possessions are secure, and the door is closed before beginning the trip. Drivers shall ensure that passengers and their possessions are safely clear of the vehicle and in an appropriate debarking location before leaving the destination. Drivers shall board passengers at the nearest safe, legal, and feasible point to the passenger's location and shall disembark passengers at a point from which they can safely proceed;

P. It is unlawful for a driver or taxi business owner to refuse a prospective fare based on the distance of the route for which the service is requested, or the geographic location of either the origin or destination of the trip except where that distance exceeds a total of fifty (50) miles beyond the City limits of the City of Ceres, or to take any action to actively discourage a prospective fare solely on the basis of race, creed, color, age, sex, sexual orientation, national origin, disability, or other protected class;

Q. Drivers may inquire whether an animal is a service animal, but may not require a disabled person to show any documentation of disability or certification of the animal's status as a service animal. The driver may require service animals not in carrying containers to remain on the floor of the vehicle; and

R. The taxicab driver shall immediately return any property of value left in his vehicle to the property's owner or report such an incident to the police department within twenty-four (24) hours.

5.13.230 Conditions Deemed to Make Taxicabs Unsafe or Unsuitable.

Any taxicab which is found, after any inspection by the City Manager or designee, to be unsafe or in any way unsuitable for taxicab service shall be immediately ordered out of service, and before again being placed in service shall be placed in a safe condition.

The existence of the following conditions, but not to the exclusion of other conditions set forth by other provisions of this Code or other applicable laws, shall be deemed to make a taxicab unsafe or unsuitable for taxicab service:

- A. Excessive leakage of oil, grease, gas or any other substance from any part of the taxicab;
- B. The existence of any defects in the frame of the taxicab;
- C. The failure of any movable parts of the car, including doors, windows, trunk, lights, etc. to function in the proper working order;
- D. Failure to maintain the tires, lights, turning signals or brakes in good and safe working condition;
- E. Failure to maintain the motor and other mechanical parts of the car in good and safe operating condition;
- F. The existence of large or excessive dents in the body of the taxicab;
- G. Failure to maintain the exterior approved paint color scheme;
- H. The existence of excessive wear and tear on the upholstery, floor mats, and other parts of the interior of the taxicab;
- I. Failure to have adequate interior lighting in proper working condition;
- J. An inoperable two-way radio;
- K. Failure to possess a basic first-aid kit; and
- L. Failure to possess a charged fire extinguisher.

5.13.240 Vehicle Inspection.

A. A Taxi Owner's License holder shall be responsible for having each taxicab inspected for mechanical fitness every six (6) months by a qualified mechanic certified by the State Department of Consumer Affairs. The City shall provide inspection forms which the mechanic shall complete and certify and the license holder shall submit the completed forms to the City.

B. New Taxi Owner's License applicants must have the inspection prior to consideration of application for approval of a Taxi Owner's License.

5.13.250 Posting Rate.

The City Council shall adopt a resolution setting maximum rates charged for taxicabs. The rates set pursuant to this Section may from time to time be changed or amended by resolution of the City Council. Upon the adoption of any such resolution, the amendment shall become effective.

5.13.260 Liability Insurance.

A. No taxicab shall be driven or operated in the City unless the owner or operator thereof obtains and maintains a motor vehicle liability insurance policy or policies from a responsible and solvent corporation, authorized to issue such policies under the laws of the State of California, insuring said owner or operator and covering such taxicab or vehicle for hire.

B. Such policy shall insure any individual driving, using or responsible for the use of any taxicab covered by said policy with the consent, express or implied, of the owner, against loss from liability imposed on any of them by law for injury to or death of any individual, or damage to property, arising from or growing out of the maintenance, operation or ownership of any taxicab covered by the policy to not less than the type and amounts or limits required for operation as prescribed by the City Manager.

C. The applicant or permittee shall file with the City said policy or policies or certificates thereof. The policy or policies shall provide that they shall not be canceled except after thirty (30) days written notice to the City.

D. Upon the City Manager receiving notice of cancellation, the City Manager by written notice shall inform the Taxi Owner's License that the permit will be automatically suspended on the expiration date of the policy, without further notice unless evidence of required insurance is filed with the City Manager on or before that date.

5.13.270 Taximeter.

A. Every taxicab shall be equipped with an accurate single tariff taximeter. It is unlawful to tamper with any taximeter or other measuring instrument for the purpose of gauging or indicating distance traveled, or waiting time, or for the purpose of fixing rates to be collected from the public or to operate a taxicab with a broken lead tag or lead wire or upon notification from the Stanislaus County Department of Weights and Measures or other appropriate agency that the meter is inaccurate.

B. The taxicab business owner shall ensure that each vehicle's taximeter is inspected a minimum of once a year by the Stanislaus County Department of Weights and Measures and immediately upon a charge effecting the meter rate. The permittee's taximeter(s) shall be subject to inspection, at any time by the Stanislaus County Department of Weights and Measures.

C. The taximeter shall be so placed in said taxicab that the reading dial showing the amount to be charged shall be well lighted and readily discernible by the passenger riding in such taxicab, unless such taximeter is equipped and operated as a receipt-printing taximeter.

D. Every such taximeter shall register the charge to the nearest ten cents (\$0.10) and be equipped with a flag or other mechanical device, and said flag shall be so attached and connected to the mechanism of said taximeter as to cause said mechanism to operate when said flag is in a position other than upright, and which said flag shall, when moved forward or downward, start the operation of said taximeter so that the same will operate in the manner defined in this Chapter. However, such taximeter shall not be required to operate on any trip that goes outside

the City limits unless the beginning point and the ending point of such trip are inside the City limits. For any trip which begins or ends inside the City limits, but for which the taximeter is not required by this Chapter to be in operation, the taxi driver shall inform the passenger before beginning the trip that it is a nonmetered trip and what the flat charge is.

E. Taximeters placed in taxicabs for the purpose of replacing broken or faulty meters shall under no circumstances be operated more than twenty-four (24) hours prior to being approved, inspected and tested by the Chief of Police and Stanislaus County Sealer of Weights and Measures.

F. Sealing of taximeters may be required by the Stanislaus County Sealer of Weights and Measures.

5.13.280 Accessible Taxi Service.

A. Prior to assigning a driver to an accessible taxi the taxi business and taxi driver shall demonstrate to the Finance Department that the taxi driver is competent to operate an accessible taxi by demonstrating the following:

1. Driver knowledge and operation of the lift system;
2. Driver knowledge and operation of the restrain system; and
3. Driver knowledge of the User manuals and equipment operating manuals.

B. Operators and Drivers of accessible taxis shall grant priority to requests for service from passengers who use ambulatory aids, and may not accept any other service request while responding to a dispatched call from a person who uses an ambulatory aid. In the absence of a request for service by a passenger who uses an ambulatory aid, an accessible taxi may transport any person.

C. Drivers of accessible taxis must provide the following services:

1. Assist the passenger from the curbside to the vehicle;
2. Assist the passenger from the vehicle to the curbside;
3. Secure the passenger within the vehicle;
4. Wait for the passenger at the curbside for at least ten (10) minutes after the agreed upon pickup time; and
5. The taxi company owner, dispatcher or driver shall confirm the agreed upon pickup time at least fifteen (15) minutes prior to arriving at the location.

D. All accessible taxis must be maintained in a safe operating condition. All business owners and drivers operating an accessible taxi are jointly and severally responsible for ensuring that all

accessible taxis for which they hold permits meet all equipment requirements listed in this Section. Any accessible taxi may be removed from service for any violation of this Section until the violation is corrected and the vehicle is re-inspected and approved for service.

E. Vehicle conversions and the installation or placement of any adaptive equipment shall be done by a facility with individuals certified or licensed to perform vehicle conversions and equipment installations. Adaptive equipment installations shall not interfere with the driver's visibility or the operation of any original manufacturer's equipment. The adaptive equipment operator's manual shall be in the vehicle at all times.

F. All lifts shall be powered by electric or hydraulic systems. Lift ramps shall be no less than thirty (30) inches wide. Lift capacity shall be no less than five hundred (500) pounds.

5.13.290 Inspection of Taxicabs.

A. The City Manager or his or her designee shall inspect each taxicab to be employed at issuance of the Taxi Owner's License for compliance with this Chapter prior to issuance of any Taxi Owner's License.

B. After issuance of a Taxi Owner's License, a taxi business owner must request the [proper City official] to inspect each new taxicab to be employed prior to the taxi being used to pick up passengers as part of the taxi business.

C. Upon finding compliance with this Chapter, the City Manager shall issue a certificate to the Taxi Owner's License for each taxicab in compliance.

5.13.300 Replacement of Taxicabs.

Whenever an owner sells or transfers title to a taxicab for which a certificate has been granted by the City Manager or designee pursuant to this Chapter, and purchases another taxicab, the City Manager, upon written request of applicant, shall issue a new certificate for the operation of such replacement taxicab, provided said owner has complied with all the provisions of this Chapter. No replacement taxicab shall be put into operation before a certificate covering its operation has been obtained as required by this Section.

5.13.310 Substitute Taxicabs.

Any owner holding a certificate to operate one or more taxicabs, who desires to temporarily substitute a different vehicle for a taxicab operated under such certificate, shall do so only upon obtaining from the City Manager, permission therefor, which shall be granted only upon written application setting forth the particulars of such proposed substitution, and upon otherwise complying with the requirements of this Chapter. The City Manager shall determine the period of time the substitute vehicle may be used, and no such vehicle shall be used as a taxicab beyond said time period without the written consent of the City Manager or designee.

5.13.320 Parking Taxicabs.

A. For purposes of on-street parking, a taxi driver shall be authorized to park one taxicab on the public right of way immediately adjacent to his or her primary residence; provided, that the business owner has a valid Taxi Driver's Permit.

B. A taxicab may be parked on any available legal on-street parking space for not more than three (3) minutes, when the driver is actually engaged in loading or unloading passengers.

C. Except while awaiting or soliciting employment, a taxicab may be parked in any City off-street parking facility, provided that the driver of said taxicab shall pay the prescribed parking fee for using the off-street parking facility. The driver of a taxicab, however, may park, await and solicit employment in any private off-street parking area after having obtained the property owner's permission.

D. Between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. of the following day, the driver of a taxicab may stop, stand or park a taxicab in any place where the parking of vehicles is legally permitted, except in taxicab stands established for other taxicab companies.

5.13.330 Record Keeping Requirements.

A. The driver of taxicab shall keep a separate waybill of every service rendered by such driver, which waybill shall include the following information:

1. Location where passengers entered vehicle;
2. Date and time of entry;
3. Number of passengers;
4. Location where passengers were discharged;
5. Amount of fare collected.

B. The business owner shall keep said waybills in his or her office files for a period of ninety (90) days after date of service rendered, and the same shall at all convenient times be open to examination by the City. The failure to complete any waybill shall subject the business owner or driver to citation. The falsifying of any waybill by a business owner or driver shall be grounds for revocation of his or her Taxi Owner's License and Taxi Driver's Permit.

C. Each taxi business owner shall keep a record of all vehicles operated and shall maintain at all times a complete and accurate record of all drivers employed, which shall show in detail the names and addresses and the dates of beginning and termination of employment of the drivers, the vehicle driven by each driver, and the hours during each day and night worked by each driver. Such records shall be displayed to the City at any time upon demand, and shall not be destroyed without permission of the City.

5.13.340 Taxicab Stands Authorized.

A. The Police Chief, in consultation with the City Engineer, is hereby authorized to locate and establish taxicab stands on City streets. Such regulations shall become effective when appropriate signs are placed giving notice of such regulations to the public. The right to use a taxicab stand heretofore or hereafter established for the use of special taxicab operator shall be

nontransferable.

1. The number of taxicab stands to which each person operating taxicabs shall be entitled shall be determined by the Police Chief based on his finding as to the need for same in order to adequately serve the public.

2. It shall be unlawful for the driver of any taxicab to allow said taxicab to remain standing or parked in any taxicab stand established for that specific taxicab or taxicab company, unless said driver is inside or within five feet (5') of the taxicab, except when the driver is assisting passengers to load or unload.

B. The fee to be paid to the City for each taxicab stand heretofore or hereafter established for the use of a taxicab operator shall be fixed by resolution of the City Council, and may be amended from time to time by resolution of the City council.

1. Taxicab stand rental fees due hereunder shall be paid in advance at the office of the Director of Finance and shall be due and payable on the first of each month and delinquent at five o'clock (5:00) P.M. on the tenth of the month.

2. To all delinquent taxicab stand rental fees there shall be added a penalty of twenty five percent (25%) of the amount due for the period, plus interest at the rate of one-half of one percent (0.5%) per month or fraction thereof until paid.

5.13.350 Termination of Employment.

It shall be the duty of the owner of each taxicab company to notify the Police Chief in writing within five (5) days whenever a driver has either voluntarily or involuntarily terminated employment.

The taxicab company shall cause, and be responsible for each taxicab driver returning his or her taxicab drivers permit to the Police Chief within five (5) days after the termination of his employment as a taxicab driver.

5.13.360 City Held Harmless.

A taxicab permittee shall, and by acceptance of a Taxicab Owner's Permit or Taxicab Driver's Permit, keep and hold the City, its agents, and employees free and harmless from any and all claims, costs, liabilities, damages or expenses, including costs of suits and fees and expenses for legal services on account of any damages claimed by any third party, including such claims by agents or employees of the business permit holder, alleged to have been sustained in or about any taxicab stand established or maintained by or for taxicabs, or in or about any of the permittee's premises, or arising out of the permittee's operations, as a result of anything claimed to have been done or not done by the permittee, or by anyone claiming or acting under the permittee.

5.13.370 Annual Operating Statement.

Each person granted a Taxi Owner's License within the City pursuant to the provision of this Chapter, shall annually file with the City Manager a detailed financial statement, including a balance sheet and profit and loss statement, for the operation of said taxicab business separate

from any other business owned or operated by said person. Said financial statement shall cover the fiscal or calendar year used by said person for Federal income tax purposes and shall be filed with the City Manager on or before the filing date of said person's Federal income tax return for said taxicab business. Alternatively, such person may satisfy the filing requirement by filing a copy of the filer's Federal income tax return.

5.13.380 Investigation of Complaints.

A. The Chief of Police shall be responsible for maintaining files of and investigating complaints of owners or drivers that advertise or operate vehicles for hire. The Chief of Police shall initiate appropriate action against vehicle owners and drivers when a complaint or complaints warrant such action.

B. Pursuant to the investigation in subsection A, the Chief of Police shall do all of the following:

1. Determine which businesses, if any, are required to have in effect a valid taxicab certificate, license, or permit as required by this Chapter, but do not have the valid authority to operate;
2. Inform any business not having valid authority to operate that it is in violation of law;
3. Within sixty (60) days of informing the owner or driver pursuant to subsection (B)(2) of this Section, institute civil or criminal proceedings, or both, pursuant to any applicable authority.

C. The Chief of Police shall also adopt criteria establishing the type of information that, when contained in a complaint, is sufficient to warrant an investigation pursuant to Government Code section 53075.7 to investigate complaints of unauthorized taxicab operations. These operating procedures shall be in writing and may be revised from time to time by the Police Chief.

Chapter 14

VIDEO SERVICE PROVIDED BY STATE FRANCHISE HOLDERS

Sections:

- 5.14.010 Purpose and Applicability.**
- 5.14.020 State Video Franchise Applications.**
- 5.14.030 Franchise Fee for State Franchise Holders.**
- 5.14.040 Public, Educational, and Governmental Channel Facilities.**
- 5.14.050 Payment of Fees.**
- 5.14.060 Customer Service Penalties for State Franchise Holders.**
- 5.14.070 Appeal Process for Customer Service Penalties.**
- 5.14.080 Public Rights-of-Way.**
- 5.14.090 Authority to Examine and Audit Business Records.**
- 5.14.100 Emergency Alert System.**
- 5.14.110 Nondiscriminatory Video Service.**

5.14.010 Purpose and Applicability.

The purpose of this Chapter is to set forth regulations for the provision of video service by State franchise holders, in accordance with the Digital Infrastructure and Video Competition Act, California Public Utilities Code section 5800 *et seq.* (“DIVCA”). This Chapter shall apply only to video service providers issued a State franchise to serve any area within the City by the California Public Utilities Commission (“CPUC”) pursuant to DIVCA.

5.14.020 State Video Franchise Applications.

A. Copy or application to city. An applicant for a state video franchise within the City must concurrently provide a complete copy to the City Manager of any application or amendments to an application filed with the California Public Utilities Commission (CPUC).

B. City Manager comments to CPUC. Within thirty (30) days of receipt, the City Manager will provide any appropriate comments to the CPUC regarding an application or an amendment to an application for a state video franchise.

5.14.030 Franchise Fee for State Franchise Holders.

Any State franchise holder shall remit to the City a franchise fee in the amount of five percent (5%) of the gross revenues of the State franchise holder in compliance with Public Utilities Code sections 5840(q) and 5860.

5.14.040 Public, Educational, and Governmental Channel Facilities.

A. The City may by an amendment of this Chapter establish a fee applicable to all holders of state video franchises to support PEG channel facilities pursuant to the authority, requirements, and restrictions of Section 5870 of the Public Utilities Code and any subsequent amendment(s) to said provisions.

B. The current cable franchise designates one channel for Public, Educational and Government

PEG programming. Local franchisees and holders of state franchises under the Act shall upon the request of the City, provide at least three (3) PEG channels.

C. All state franchisees shall comply with the provisions of the Act related to PEG channels. Without limiting the foregoing, the PEG channels shall all be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law and shall provide picture and sound quality and channel accessibility and location equal to, or substantially equal to, that provided by the incumbent cable provider. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the City unless the change is required by federal law.

D. Any State franchise holder shall designate a sufficient amount of capacity on its network to allow the provision of PEG channels in accordance with Public Utilities Code section 5870. Any State franchise holder shall have three (3) months from the date the City requests the PEG channels to designate the capacity. The three (3) month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible. Any state franchise holder who believes that the designation or provision of PEG channel capacity is technically infeasible, shall provide to City, in writing, its reasons therefore and its plan for correcting or solving the infeasibility. City may hold a hearing on the claim of infeasibility and, thereafter, take such action as City deems proper to require the designation and provision of the PEG channels on the state franchise holder's system.

E. This Section shall be enforced, and disputes regarding this Section shall be resolved, pursuant to Public Utilities Code section 5870.

5.14.050 Payment of Fees.

A. Any State franchise holder shall pay all fees required pursuant to Sections 5.14.030 and 5.14.040 on a quarterly basis in a manner consistent with Public Utilities Code section 5860.

B. Any State franchise holder shall deliver to the City by check, or other means agreeable to the City Manager, a separate payment for the franchise fee established in Sections 5.14.030 and 5.14.040 not later than forty-five (45) days after the end of each calendar quarter.

C. Each payment of the franchise fee established in Section 5.14.030 delivered to the City shall be accompanied by a summary report explaining the basis for the calculation of the payment.

D. If any State franchise holder fails to remit all fees required pursuant to Sections 5.14.030 and 5.14.040 when due, the State franchise holder shall remit to the City a late payment charge at the rate per year equal to the highest prime lending rate during the period of delinquency plus one percent (1%). If the state franchisee has overpaid the franchise fees, it may deduct the overpayment from its next quarterly payment.

5.14.060 Customer Service Penalties for State Franchise Holders.

A. Any State franchise holder shall comply with: the customer service provisions set forth in

Public Utilities Code section 5900; Government Code sections 53055, 53055.1, 53055.2 and 53088.2; the FCC customer service and notice standards set forth in 47 CFR sections 76.309, 76.1602, 76.1603 and 76.1619; Penal Code section 637.5; the privacy standards of 47 U.S.C. section 551; and all other applicable state and federal customer service and consumer protection standards pertaining to the provision of video service, including any such standards hereafter adopted. In case of a conflict, the stricter standard shall apply. All customer service and consumer protection standards under this subsection shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

B. The City shall impose the following penalties against a State franchise holder for any material breach of the customer service provisions set forth in Public Utilities Code section 5900:

1. For the first occurrence of a material breach, a fine of five hundred dollars (\$500.00) shall be imposed for each day of each material breach, not to exceed one thousand five hundred dollars (\$1,500.00) for each occurrence of the material breach.

2. For a second occurrence of a material breach of the same nature as the first material breach that occurs within twelve (12) months, a fine of one thousand dollars (\$1,000.00) shall be imposed for each day of each material breach, not to exceed three thousand dollars (\$3,000.00) for each occurrence of the material breach.

3. For a third or further occurrence of a material breach of the same nature as the previous material breaches that occurs within twelve (12) months, a fine of two thousand five hundred dollars (\$2,500.00) shall be imposed for each day of each material breach, not to exceed seven thousand five hundred dollars (\$7,500.00) for each occurrence of the material breach.

C. The City shall provide the State franchise holder with written notice of any alleged material breach of the customer service provisions set forth in Public Utilities Code section 5900 and shall allow the State franchise holder at least thirty (30) days from receipt of the notice to remedy the specified material breach.

D. A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of the City, following the expiration of the period specified in subsection C of this Section, that any material breach has not been remedied by the State franchise holder, irrespective of the number of customers affected. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the State franchise holder.

E. Pursuant to Public Utilities Code section 5900, any penalty remitted to the City by a State franchise holder for a material breach of the customer service provisions set forth in Public Utilities Code section 5900 shall be split in half, and the City shall submit one-half of the penalty amount to the Digital Divide Account established by Public Utilities Code section 280.5.

5.14.070 Appeal Process for Customer Service Penalties.

Any State franchise holder may appeal any customer service penalty assessed pursuant to

Section 5.14.060 according to the following procedure:

A. The State franchise holder may file a request for hearing form with the City Clerk within thirty (30) days from receipt of the written notice specified in Section 5.14.060, subdivision (C) with an advance deposit of the penalty amount.

B. A request for hearing form may be obtained from the City Clerk.

C. The State franchise holder requesting the hearing shall be notified by the City Clerk of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.

D. The hearing shall be set by the City Clerk for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing form is filed with the City Clerk.

E. At the hearing, the City shall bear the burden of proof by a preponderance of the evidence that the material breach occurred as charged. The City may be represented by counsel.

F. At the hearing, the State franchise holder may cross-examine any witness against the State franchise holder and may present evidence. The State franchise holder may be represented by counsel.

G. The formal rules of evidence shall not apply at the hearing. The hearing officer may rely upon such evidence as he or she believes reasonable persons would rely upon in the conduct of their affairs. Any witnesses shall testify under oath.

H. After hearing and reviewing all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the penalty and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

I. If the hearing officer determines that the penalty should be canceled, the City shall promptly refund the amount of the deposited penalty, together with interest at the average rate earned on the City's investment portfolio for the period of time that the penalty amount was held by the City.

J. Any interested person may obtain review of the decision of the hearing officer by filing an appeal in a court of competent jurisdiction pursuant to Public Utilities Code section 5900.

5.14.080 Public Rights-of-Way.

A. The City shall allow any State franchise holder to install, construct, and maintain a network within public rights-of-way pursuant to Chapter 13.01, streets, sidewalks and public places, and in a manner consistent with Public Utilities Code section 5885.

B. The City shall either approve or deny an encroachment permit application within sixty (60) days of receiving a completed application. An application is considered complete when the

applicant has complied with all statutory requirements, including the California Environmental Quality Act (Public Resources Code section 21000 and following).

C. If the City denies the encroachment permit, it shall provide the applicant with a detailed explanation of the reason for the denial. A determination regarding the encroachment permit by the Public Works Director and the Community Development Director may be appealed to the City Council per Section 5.14.070.

5.14.090 Authority to Examine and Audit Business Records.

A. The City may examine and audit once per year the business records of any State franchise holder relating to gross revenues pursuant to Public Utilities Code section 5860.

B. All State franchise holders shall keep and maintain all business records reflecting any gross revenues, regardless of change in ownership, for at least four (4) years after those gross revenues are recognized by the State franchise holder on its books and records pursuant to Public Utilities Code section 5860.

C. If the State franchise holder has underpaid the franchise fee established by Section 5.14.030 by more than five percent (5%), the State franchise holder shall pay the reasonable and actual costs of the examination and audit. If the State franchise holder has not underpaid the franchise fee established in Section 5.14.030, the City shall pay the reasonable and actual costs of the examination and audit. If the State franchise holder, however, has underpaid the franchise fee established by Section 5.14.030 by five percent (5%) or less, the State franchise holder and the City shall each bear their own costs of the examination and audit.

5.14.100 Emergency Alert System.

All State franchise holders shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over State franchise holders' networks.

5.14.110 Nondiscriminatory Video Service.

Any State franchise holder is prohibited from discriminating against or denying access to service to any group of potential residential subscribers within the City because of the income of the residents on the local area in which the group resides. The requirement may be satisfied pursuant to Public Utilities Code section 5890. The City may bring complaints to the CPUC that a State franchise holder is not offering video services as required by Public Utilities Code section 5890.

Chapter 15

ADULT ENTERTAINMENT BUSINESSES

Sections:

- 5.15.010 Definitions.**
- 5.15.020 Purpose and Intent.**
- 5.15.030 Location Requirements.**
- 5.15.040 Adult Newsracks.**
- 5.15.050 Amortization of Nonconforming Adult Business Uses.**
- 5.15.060 Application for Extension of Time for Termination of Nonconforming Use.**
- 5.15.070 Adult Business Regulatory Permit Applications.**
- 5.15.080 Investigation and Action on Application.**
- 5.15.090 Permit Denial, Expiration, and Renewal.**
- 5.15.100 Transfer of Adult Business Regulatory Permits.**
- 5.15.110 Adult Business Performer Permit Application.**
- 5.15.120 Investigation and Action on Application.**
- 5.15.130 Suspension or Revocation of Adult Business Regulatory Permits and Adult Business Performer Permits.**
- 5.15.140 Register and Permit Number of Employees.**
- 5.15.150 Display of Permit and Identification Cards.**

5.15.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

"Adult business operator" or "Operator" means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult business or the conduct or activities occurring on the premises thereof.

"Adult business" means any one of the following:

1. "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer-generated images, motion pictures, video cassettes, slides or other photographic reproductions, thirty percent (30%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.
2. "Adult bookstore" means an establishment that has thirty percent (30%) or more of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio

representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

3. "Adult cabaret" means a nightclub, restaurant, or similar business establishment which:

a. Regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities;

b. Regularly features persons who appear semi-nude; or

c. Shows films, computer-generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty percent (30%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

4. "Adult hotel" or "Adult motel" means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which:

a. Provides patrons with closed-circuit television transmission, films, computer-generated images, motion pictures, video cassettes, slides, or other photographic reproduction thirty percent (30%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas; and

b. Rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a twenty-four (24) hour period.

5. "Adult motion picture theater" means a business establishment where, for any form of consideration, films, computer-generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty percent (30%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

6. "Adult theater" means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

7. "Modeling studio" means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities".

“Adult newsrack” means any coin-operated machine or device which dispenses material substantially devoted to the depiction of "specified sexual activities" or "specified anatomical areas," or any magazine or book display inside a store other than an "adult business" as defined in this Section.

“Bar” means any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages on the premises.

“Church” means a structure which is used primarily for religious worship and related religious activities.

"Distinguished or characterized by an emphasis upon" means and refers to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas.

To "establish" an adult business means and includes any of the following:

1. The opening or commencement of any adult business as a new business;
2. The conversion of an existing business, whether or not an adult business, to any adult business defined in this Section;
3. The addition of any of the adult businesses defined in this Section to any other existing adult business; or
4. The relocation of any such adult business.

“Figure model” means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

“Nudity or state of nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

"Operate an adult business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult business or activities within an adult business.

"Regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or

characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within a one hundred eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct,

“School” means any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

“Semi-nude” means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breasts, as well as portions of the body covered by supporting straps or devices.

"Specified anatomical areas" means and includes any of the following:

1. Less than completely and opaquely covered human 1) genitals or pubic region; 2) buttocks; and 3) female breasts below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered;
3. Any device, costume or covering that simulates any of the body parts included in subsection A or B of this definition.

"Specified sexual activities" means and includes any of the following, whether performed directly or indirectly through clothing or covering:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated;
4. Excretory functions as part of or in connection with any of the other activities described in subsections A through C of this definition.

5.15.020 Purpose and Intent.

The purpose of this Chapter is to establish reasonable and uniform regulations to prevent the concentration of adult businesses or their close proximity to incompatible uses, while permitting the location of adult businesses in certain areas.

It is also the purpose of this Chapter to regulate adult businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials.

Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material. Nothing in this Chapter is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter or the exhibition or public display thereof. It is the intent of this Chapter to prevent community-wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of adult businesses in close proximity to each other or proximity to other incompatible

5.15.030 Location Requirements.

Adult businesses shall be zoned in accordance with the guidelines in Title 18.

5.15.040 Adult Newsracks.

Material offered for sale from adult newsracks shall not be displayed or exhibited in a manner which exposes to public view any pictures or illustrations of specified anatomical areas or specified sexual activities.

5.15.050 Amortization of Nonconforming Adult Business Uses.

Any use of real property existing on the effective date of this Ordinance, which does not conform to the provisions of Section 5.15.030 of this Chapter, but which was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use which may be continued for a period of one (1) year after the effective date of this Ordinance. On or before such date, all such nonconforming uses shall be terminated unless an extension of time has been approved in accordance with the provisions of Section 5.15.060 of this Chapter.

A. Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as an adult business for six (6) continuous months shall result in a loss of legal nonconforming status of such use.

B. Any adult business which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of Section 5.15.030 of this Chapter shall be terminated within one year of the date of annexation unless an extension of time has been approved in accordance with the provisions of Section 5.15.060 of this Chapter.

5.15.060 Application for Extension of Time for Termination of Nonconforming Use.

The owner or operator of a nonconforming use as described in Section 5.15.030 of this Chapter

may apply under the provisions of this Section to the City Manager for an extension of time within which to terminate the nonconforming use.

A. An application for an extension of time within which to terminate a use made nonconforming by the provisions of Section 5.15.050 of this Chapter, may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the City Manager at least ninety (90) days but no more than one hundred eighty (180) days prior to the time established in Section 5.15.050 of this Chapter for termination of such use.

B. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the City Council.

C. The hearing officer shall set the matter for hearing within forty-five (45) days of receipt of the application and shall be conducted pursuant to Chapter 5.05. The owner or operator shall be notified of the hearing pursuant to Section 5.05.060.

D. The hearing officer shall approve an extension under the provisions of this Section for a reasonable period of time commensurate with the investment involved, The hearing officer shall only approve the application only if he or she makes all of the following findings or such other findings as are required by law:

1. The applicant has made a substantial investment (including, but not limited to, lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use;
2. The applicant will be unable to recoup said investment as of the date established for termination of the use; and
3. The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with Section 9.42.030 of this Chapter.

5.15.070 Adult Business Regulatory Permit Applications.

A. Every person who proposes to maintain, operate or conduct an adult business in the City shall file an application with the Chief of Police upon a form provided by the City and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable. Adult business regulatory permits are nontransferable, except in accordance with Section 5.15.100 of this Chapter. Therefore, all applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen (18) years of age.
2. If the applicant is a partnership, the partners shall state the partnership's complete name,

address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

4. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent (10%) or greater interest in the business entity shall sign the application.

5. If the applicant intends to operate the adult business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult business and show proof of registration of the fictitious name.

6. A description of the type of adult business for which the permit is requested and the proposed address where the adult business will operate, plus the names and addresses of the owners and lessors of the adult business site.

7. The address to which notice of action on the application is to be mailed.

8. The names of all employees, independent contractors, and other persons who will perform at the adult business, who are required by Section 5.15.110 of this Chapter to obtain an adult business performer permit (for ongoing reporting requirements see Section 5.15.110 of this Chapter).

9. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the adult business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

10. A certificate and straight-line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the adult business.

11. A diagram of the off-street parking areas and premises entries of the adult business showing the location of the lighting system required by Title 18.

12. Any other information required by the Chief of Police to verify the information contained in the application and compliance with this Chapter.

13. A written, dated, and signed statement by the applicant certifying, under penalty of perjury, that:

- a. All information contained in the application is true and correct;
- b. The owner(s) will only employ or retain performers who are permitted under [adult entertainment performer permit];
- c. The owner(s) will be responsible for the conduct of all entertainment business operators, employees, agents, independent contractors, or other representatives while such persons are on the premises of the adult entertainment business establishment, and that failure to comply with the provisions of this Chapter and any federal, state, or local law may result in the suspension or revocation of the massage establishment permit; and
- d. The applicant has received a copy of this Chapter and of the obligations pursuant to this Chapter.

B. If the Chief of Police determines that the applicant has completed the application improperly, he shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the Chief of Police to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

C. The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining an adult business regulatory permit.

D. If any of the information provided in the application changes during the permitting process, the applicant must notify the Chief of Police within ten (10) days.

5.15.080 Investigation and Action on Application.

A. Upon receipt of a completed application and payment of the application and permit fees, the Chief of Police shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an adult business regulatory permit.

B. Within thirty (30) days of receipt of the completed application, the Chief of Police shall complete the investigation and grant or deny the application in accordance with the provisions of this Chapter, and so notify the applicant as follows:

1. The Chief of Police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
2. If the application is denied, the Chief of Police shall attach to the application a statement of the reasons for denial.
3. If the application is granted, the Chief of Police shall attach to the application an adult business regulatory permit.

4. The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.

C. The Chief of Police shall grant the application and issue the adult business regulatory permit upon findings that:

1. The proposed business meets the locational criteria of Title 18;
2. That the applicant has met all of the developmental and performance standards and requirements of Section 5.15.070 of this Chapter; and
3. The application should not be denied for one or more of the reasons set forth in Section 5.15.090 of this Chapter.

D. The permittee shall post the permit conspicuously in the adult business premises.

E. If the Chief of Police grants the application or if he neither grants nor denies the application within thirty (30) days after it is stamped as received (except as provided in subsection 5.15.090B of this Chapter), the applicant may begin operating the adult business for which the permit was sought, subject to strict compliance with the development and performance standards and requirements of Section 5.15.070 of this Chapter.

5.15.090 Permit Denial, Expiration, and Renewal.

A. The Chief of Police shall deny the application for any of the following reasons:

1. The building, structure, equipment, or location used by the business for which an adult business regulatory permit is required does not comply with the requirements and standards of the health, zoning, fire and safety laws of the City and the State, or with the locational or development and performance standards and requirements of these regulations.
2. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading, or fraudulent statement of material fact in the application for an adult business regulatory permit.
3. An applicant is under eighteen (18) years of age.
4. The required application fee has not been paid.
5. The adult business does not comply with the Zoning Ordinance locational standards.

B. Each adult business regulatory permit shall expire one (1) year from the date of issuance, and may be renewed only by filing with the Chief of Police a written request for renewal, accompanied by the annual permit fee and a copy of the permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the permit. When made less than thirty (30) days before the expiration date, the expiration of the permit will not be

stayed. Applications for renewal shall be acted on as provide in this Chapter for action upon applications for permits.

5.15.100 Transfer of Adult Business Regulatory Permits.

A. A permittee shall not operate an adult business under the authority of an adult business regulatory permit at any place other than the address of the adult business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of an adult business or transfer an adult business regulatory permit to another person unless and until the transferee obtains an amendment to the permit from the Chief of Police stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Chief of Police in accordance with Section 5.15.070 of this Chapter, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with Section 5.15.080 of this Chapter that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Chief of Police has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this Section is hereby declared void, and the permit shall be deemed revoked.

5.15.110 Adult Business Performer Permit Application.

A. No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult business, without a valid adult business performer permit issued by the City. All persons who have been issued an adult business regulatory permit shall promptly supplement the information provided as part of the application for the permit required by Section 5.15.070 of this Chapter, with the names of all performers required to obtain an adult business performer permit, within thirty (30) days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the adult business regulatory permit.

B. The Chief of Police shall grant, deny and renew adult business performer permits.

C. The application for a permit shall be made on a form provided by the Chief of Police. An original and two (2) copies of the completed and sworn permit application shall be filed with the Chief of Police.

D. The completed application shall contain the following information and be accompanied by the following documents:

1. The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
2. Age, date and place of birth;

3. Height, weight, hair and eye color;
 4. Present residence address and telephone number;
 5. Whether the applicant has ever been convicted of:
 - a. Any of the offenses set forth in sections 315, 316, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 647(a), 647(b) and 647(d) of the California Penal Code as those sections now exist or may hereinafter be amended or renumbered.
 - b. The equivalent of the aforesaid offenses outside the State of California.
 6. Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution;
 7. State driver's license or identification number;
 8. Satisfactory written proof that the applicant is at least eighteen (18) years of age;
 9. The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;
 10. If the application is made for the purpose of renewing a permit, the applicant shall attach a copy of the permit to be renewed.
- E. The completed application shall be accompanied by a nonrefundable application fee. The amount of the fee shall be set by resolution of the City Council and may be amended from time to time.
- F. Upon receipt of an application and payment of the application fees, the Chief of Police shall immediately stamp the application as received and promptly investigate the application.
- G. If the Chief of Police determines that the applicant has completed the application improperly, he shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten (10) days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the Chief of Police to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

H. If any of the information provided in the application changes during the application process, the applicant must notify the Chief of Police within ten (10) days.

5.15.120 Investigation and Action on Application.

A. Within five (5) days after receipt of the completed application, the Chief of Police shall grant or deny the application and so notify the applicant as follows:

1. The Chief of Police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
2. If the application is denied, the Chief of Police shall attach to the application a statement of the reasons for denial.
3. If the application is granted, the Chief of Police shall attach to the application an adult business performer permit.
4. The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.

B. The Chief of Police shall grant the application and issue the permit unless the application is denied for one or more of the reasons set forth in subsection D of this Section.

C. If the Chief of Police grants the application or if he neither grants nor denies the application within five (5) days after it is stamped as received (except as provided in subsection 5.15.110G of this Chapter), the applicant may begin performing in the capacity for which the permit was sought.

D. The Chief of Police shall deny the application for any of the following reasons:

1. The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application.
2. The applicant is under eighteen (18) years of age.
3. The adult business performer permit is to be used for performing in a business prohibited by State or City law.
4. The applicant has been registered in any state as a prostitute.
5. The applicant has been convicted of any of the offenses enumerated in subsection 5.15.110D5 of this Chapter or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A permit may be issued to any person convicted of the described crimes if the conviction occurred more than five (5) years prior to the date of the application.

E. Each adult business performer permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the Chief of Police a written request for renewal, accompanied by the application fee and a copy of the permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the permit. When made less than thirty (30) days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided in Section 5.15.110.

5.15.130 Suspension or Revocation of Adult Business Regulatory Permits and Adult Business Performer Permits.

In addition to the reasons set forth in Section 5.04.030, an adult business regulatory permit or adult business performer permit may also be suspended or revoked for any of the following causes arising from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder, or manager of an adult business:

A. The permittee, employee, agent, partner, director, stockholder, or manager of an adult business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult business, or in the case of an adult business performer, the permittee has engaged in one of the activities described below while on the premises of an adult business:

1. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.
2. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.
3. Any conduct constituting a criminal offense which requires registration under Penal Code section 290.
4. The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Penal Code sections 315, 316, 318, or 647(b).
5. Any act constituting a violation of provisions in the Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, sections 311 through 313.4.
6. Any conduct prohibited by this Chapter.

B. Failure to conform to the building, structure, equipment, zoning, and other requirements of this Code.

5.15.140 Register and Permit Number of Employees.

Every permittee of an adult business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities must maintain a register of all persons

so performing on the premises and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer or health officer of the City.

5.15.150 Display of Permit and Identification Cards.

An adult business performer shall have such card available for inspection at all times during which such person is on the premises of the adult business.

Chapter 16

MESSAGE ESTABLISHMENTS

Sections:

- 5.16.010** **Definitions.**
- 5.16.020** **Purpose.**
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- 5.16.040** **Message Establishment Permit Required.**
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- 5.16.280** **Transfer and Renewal of Permits.**
- 5.16.290** **Exemptions.**

5.16.010 **Definitions.**

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Applicant” means a person who is required to file an application for a permit under this Chapter, including a masseur, masseuse, instructor, trainee, individual owner, managing partner, managing officer of a corporation, or any other operator, manager or employee of a massage

establishment or school of massage.

“Baths” means the giving or furnishing of Russian, Finnish, Swedish, hot-air, vapor, electric cabinet, steam, mineral, sweat, salt, Japanese, sauna, fomentation, or electric baths or baths of any kind whatever, excluding ordinary tub baths or showers where an attendant is not required.

“Bona fide nonprofit organization” means any fraternal, charitable, religious, benevolent, or any other nonprofit organization having a regular membership association primarily for mutual, social, mental, political, and civic welfare to which admission is limited to the members and guests and revenue accruing therefrom is to be used exclusively for the purposes of said organization, and which organization or agency is exempt from taxation, under the Internal Revenue Laws of the United States as a bona fide fraternal, charitable, religious, benevolent, or other nonprofit organization and in which any massage or bath services provided are incidental to its primary operation.

“California Massage Therapy Council (CAMTC)” means the state organized nonprofit organization created to regulate the massage industry set forth in Cal. Bus. & Prof. Code Division 2, Chapter 10.5 (commencing with Section 4600).

“CAMTC certificate” means a current and valid certificate issued by the California Massage Therapy Council to a massage technician.

“Health officer” means the designated health official within the City’s Building Department.

“Instructor” means a person employed by a school of massage for the purpose of teaching and/or demonstrating courses in said school.

“Massage” means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of a human body with the use of the hands, arms, or other portion of another human body, with or without the aid of any mechanical or electrical apparatus or appliances and with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used on the human body. Massage shall also include the giving of any baths as listed under "bath" of this Section.

“Massage establishment” means any establishment having a fixed place of business where any person, firm, partnership, association, corporation or combination thereof engages in, carries on, or permits to be engaged in or carried on, any massage techniques for compensation or any other consideration. This includes any establishment engaged in, carrying on, or permitting any combination of massage or bodywork or bathhouse.

“Massage practitioner” means any person who for any consideration whatsoever engages in the practice of massage or bodywork techniques as defined in this Section, unless otherwise exempted. The terms “massage therapist,” “massage technician,” or any other terms used within the massage industry are included within this definition for the purposes of this Chapter.

“Massage techniques” means any method of pressure on or friction against, or stroking, kneading,

rubbing, tapping, pounding, vibrating or stimulating of the external parts of another human body with the use of hands, arms, or other portions of the body, or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. This includes giving baths where an attendant is present.

“Masseur” or “Masseuse” means any person who, for any consideration whatsoever, engages in the practice of massage as defined in this Section unless otherwise excepted.

“Out-call massage service” means to engage in or perform massage or bodywork for a fee or other consideration at a location other than a duly licensed massage or bodywork establishment or school of massage.

“Owner” means any of the following individuals:

1. The sole practitioner of a sole proprietorship operating a massage establishment.
2. Any general partner of a general or limited partnership that owns a massage establishment.
3. Any person who has ten percent (10%) or greater ownership interest in a corporation that owns a massage establishment.
4. Any person who is a member of a limited liability company that owns a massage establishment.
5. All owners of any type of business entity that owns a massage establishment.
6. Any person identified as an owner on a massage establishment permit.

“Patron” means a customer receiving massage or bodywork services in exchange for consideration.

“School of massage” means any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than one hundred eighty (180) class hours to be given in not less than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning, and which school has been approved pursuant to Education Code section 29007.5.

“Trainee” means a person accepted for enrollment in a course of study leading to a degree or certificate of graduation from a school of massage in the State of California.

5.16.020 Purpose.

The City recognizes that massage is a viable professional field offering services with public health and therapeutic benefits. The purpose of this Chapter is to regulate massage and bodywork

businesses within the City as is necessary to protect the health, safety and welfare of City residents.

The regulations created in this Chapter are pursuant to California Government Code section 51030 *et seq.* and California Business and Professions Code section 4600 *et seq.* These regulations are meant to ensure that massage establishments within the City are operated in a safe, professional, and lawful manner. It is the purpose of the City that these regulations ensure massage practitioners within the City have the proper skill and experience to provide safe and sanitary services. It is also the purpose of this Chapter to create health and safety standards to ensure the safety of massage establishment patrons in the City.

5.16.030 CAMTC Certification Required.

A. It is unlawful for any person to engage in, conduct or carry on, or permit to be engaged in, in or upon any premises within the City the business of providing massage, for any compensation, without being in the possession of a valid California Massage Therapy Council (hereinafter “CAMTC”) certificate.

B. It shall be unlawful for a massage establishment to employ or retain any person to practice massage therapy for compensation, or to allow any person to perform massage therapy for compensation on the premises of a massage establishment, unless that person is a CAMTC certified massage professional.

5.16.040 Massage Establishment Permit Required.

No person shall conduct, or permit the operation of a massage establishment on their premises, without first having obtained a massage establishment permit issued by the City. It is unlawful for a massage establishment to continue to operate following the sale or transfer of any interest in the massage establishment to any person who was not identified as an owner in the massage establishment permit application. If a massage business is sold, the new owner must apply for a license for that location before conducting business as a massage establishment. Upon the sale of a massage business, the current permittee shall notify the Finance Department of the sale.

5.16.050 Authority to Enforce.

The Chief of Police, or designee, shall have the power and authority to promulgate rules, regulations, and requirements that are consistent with the provisions of this Chapter and applicable State law to investigate, issue, suspend, or revoke massage establishment permits.

5.16.060 Permit and Fees.

A. Every person who proposes to maintain, operate, or conduct a massage establishment or a school of massage in the City shall file an application with the City Clerk upon a form provided by the City and shall pay a filing fee of an amount established by the City Council, which may be amended from time to time by resolution, and which shall not be refundable.

B. Every person who proposes to be employed by a massage establishment or a school of massage, every person who proposes to engage in the practice of massage, and every person who proposes to be an instructor or trainee in a school of massage shall file an application with the City Clerk upon a form provided by the City and shall pay a filing fee of an amount established

by the City Council, which may be amended from time to time by resolution, and which shall not be refundable.

C. A permit, when issued, shall state whether it is for a massage establishment, for a school of massage, for a massage practitioner or trainee, for a massage establishment or school of massage employee who is not authorized to perform a massage, or for an instructor or trainee in a school of massage.

5.16.070 Referral of Application to Other Departments.

A. All applications for permits for massage establishments or schools of massage shall be referred to the Building Official, the Fire Chief, the Director of Community Development, and the Chief of Police who shall make written recommendations to the City Clerk concerning compliance with the laws and ordinances that they administer and enforce.

B. All other applications shall be referred to the County Health Inspector and Chief of Police or designee for their written recommendations to the City Clerk concerning compliance with the laws and ordinances that they administer and enforce.

C. The Chief of Police or designee shall require an applicant to have his or her fingerprints taken and may require such additional information as may be necessary to establish the identification of the applicant.

5.16.080 Application for Massage Establishment Permit.

A. An applicant for a massage establishment permit must be the owner of the massage establishment. Any applicant seeking a massage establishment permit must file a written application, with the required forms and documentation, to the Chief of Police. The application shall include a nonrefundable filing fee and nonrefundable facility review plan fee. The application must include the following information:

1. The exact name of the businesses under which the business of the massage establishment will be conducted;
2. The complete address and all telephone numbers of the of the massage establishment;
3. The type of ownership of the business, i.e., whether sole proprietorship, partnership, corporation, or otherwise. The application should also contain the names and contact information of all officers, directors, and persons with an ownership interest in the business, including partners and stockholders;
4. The proposed hours of operation for the massage establishment;
5. A description of any other businesses owned by the applicant, including any other businesses that will be operated on the same premises as the massage establishment;
6. A complete and current list of the names and residential addresses of all proposed massage practitioners and employees in the massage establishment and the name and

residential addresses of the manager(s) proposed to be principally in charge of the operation of the massage establishment;

7. For each person who will be providing massage therapy, a copy of his or her current certification from CAMTC and a copy of his or her current CAMTC issued identification card;

8. For each owner who is a CAMTC certified massage professional, a copy of his or her current certification from CAMTC and a copy of his or her current CAMTC issued identification card;

9. The applicant's:

a. Current address and telephone number and all previous residential addresses for the past eight (8) years;

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

c. A copy of a valid and current driver's license or identification card issued by a State or Federal government agency or other photographic identification bearing a bona fide seal by a foreign government;

d. The applicant's complete business, occupation and employment history for the past eight (8) years, including the applicant's business history and experience with massage businesses;

e. Two current "passport" photographs of the applicant, each not exceeding four square inches in size, and being only front views of the face and head;

f. The complete massage permit history of the applicant including:

(i) A list of all past applications for permits or licenses in the past eight (8) years;

(ii) The agencies, cities, boards, counties, territories, or states applied from which an application was sought;

(iii) The date of issuance of any licenses or permits;

(iv) A list of any denial, revocation, or suspension of a license or permit and an explanation of each.

g. All criminal convictions, including pleas of nolo contendere, within the past eight (8) years, including those dismissed or expunged pursuant to California Penal Code Section 1203.4, but excluding minor traffic violations, the date and place of each conviction, and an explanation;

10. Either proof of ownership of the property or a copy of the lease agreement and a notarized letter from the real property owner acknowledging that the property will be used as a massage establishment;

11. A description of the massage establishment, including, but not limited to, the type of treatments to be administered and the proposed hours of operation;

12. Seven (7) sets of facility plans for the massage establishment;

13. Authorization for the City, its agents, and its employees to seek verification of the information contained in the application;

14. Such other information as required by the Chief of Police or designee to verify the information contained in the application;

15. A written, dated, and signed statement by the applicant certifying, under penalty of perjury, that:

a. All information contained in the application is true and correct;

b. The owner(s) will only employ or retain CAMTC certified massage professionals, and failure to comply may result in the suspension or revocation of the massage establishment permit;

c. The owner(s) will be responsible for the conduct of all massage establishment operators, employees, agents, independent contractors, or other representatives while such persons are on the premises of the massage establishment or providing out-call massage services, and that failure to comply with the provisions of this Chapter and any federal, state, or local law may result in the suspension or revocation of the massage establishment permit; and

d. They have received a copy of this Chapter and understand its contents.

16. Written, dated, and signed statements from the applicant's designated managers certifying under penalty of perjury that they have reviewed and understand the contents of this Chapter and obligations pursuant to Sections 5.16.150 through 5.160.

B. If any of the information provided in the application changes during the application process, the applicant must notify the Chief of Police or designee within ten (10) days.

C. An owner who will also be a massage practitioner must also pay the fees associated with the massage practitioner's permit.

5.16.090 **Massage Establishment Permit Issuance and Denial.**

A. The Chief of Police or designee shall evaluate each permit application and issue an approval, conditional approval or denial within sixty (60) days of receiving the complete application.

Applications shall be referred to the Building Inspector, the Fire Marshal, and to approve the facility plans and inspect the premises. The Chief of Police or designee may extend the evaluation period by an additional thirty (30) days if necessary to investigate the representations made in the application. The Chief of Police or designee shall approve a permit application unless:

1. Any owners, personnel, employees, or operators of the massage establishment:
 - a. Have been convicted of a violation of Penal Code sections 266, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 314, 315, 316, 318, 647(a), (b), or (d), or any other provision of law pursuant to which a person is required to register under the provisions of Penal Code section 290 or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of Penal Code section 415 or any lesser included or lesser related offense in satisfaction of, or as a substitute of, any of the previously listed crimes;
 - b. Haven been convicted of a violation of Health and Safety Code section 11550 or any felony offense involving the sale of a controlled substance specified in Health and Safety Code sections 11054, 11055, 11056, 11057, or 11068;
 - c. Have been convicted in any other state which is the equivalent of any of the above-mentioned offenses;
 - d. Have been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Penal Code section 11225 et seq., or any similar provisions of law in a jurisdiction outside the State of California; or
 - e. Are required to register under Penal Code section 290.
2. The applicant has made a false, misleading, or fraudulent statement or omission of fact to the City during the permit application process;
3. The application does not contain all of the information required under this Chapter;
4. The proposed massage establishment does not comply with all applicable laws including but not limited to health, zoning, fire, and safety requirements and standards;
5. Plans for proposed massage establishments have not been approved by the County health department or the building is not in compliance with all of the City's applicable building code requirements; or
6. The applicant has not satisfied the requirements of this Chapter in the time specified.

B. If the application is denied, the applicant may not reapply for a six (6) month period from the date the application is denied.

5.16.100 **Massage Practitioner or Trainee Permit Application.**

A. Any applicant seeking a massage practitioner or trainee permit must file a written application, with the required forms and documentation, to the Chief of Police. The application shall include a nonrefundable filing fee. The application must include:

1. A statement of the exact location at which the applicant will be working as a massage practitioner or trainee, including the exact name of the business, full street address, and all telephone numbers associated with the location;
2. The following personal information of the practitioner or trainee applicant:
 - a. Full and complete name and all aliases used by the applicant;
 - b. Current address, telephone number, and all previous residential addresses for the eight (8) years preceding the date of the application;
 - c. Acceptable written proof that the applicant is at least eighteen (18) years of age;
 - d. A copy of a valid and current driver's license or identification card issued by a State or Federal government agency or other photographic identification bearing a bona fide seal by a foreign government;
 - e. The applicant's complete business, occupation and employment history for the past eight (8) years, including the applicant's business history and experience with massage businesses;
 - f. Two current "passport" photographs of the applicant, each not exceeding four (4) square inches in size, and being only front views of the face and head;
 - g. The complete massage permit history of the applicant including:
 - (i) A list of all past applications for permits or licenses in the past eight (8) years;
 - (ii) The agencies, cities, boards, counties, territories, or states applied from which an application was sought;
 - (iii) The date of issuance of any licenses or permits;
 - (iv) A list of any denial, revocation, or suspension of a license or permit and an explanation of each;
 - h. All criminal convictions, including pleas of nolo contendere, within the past eight (8) years, including those dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding minor traffic violations, the date and place of each conviction, and an explanation.

3. A copy of his or her current certification from CAMTC and a copy of his or her current CAMTC issued identification card, or proof of enrollment in a recognized massage school, if requesting a trainee permit;

4. Authorization for the City, its agents, and its employees to seek verification of the information contained in the application;

5. Such other information as required by the Chief of Police or designee to verify the information contained in the application;

6. An original or certified copy of a diploma or certificate and certified transcript of graduation for completion of five hundred (500) hours of instruction from a recognized school of massage; and

a. The Chief of Police or designee may consider an applicant's study of massage completed outside of the state if proof of completion from a formalized course of study massage practice, anatomy, or physiology is provided with the application. Proof of completion shall include dates of study and the name, address, and phone number of the school attended, the original diploma or certificate, and certified transcripts of graduation.

b. Any out-of-state course of study submitted for approval shall meet the State of California's Office of Post-Secondary Education's minimum requirements and be for completion of five hundred (500) hours of on-premises training.

c. This subdivision shall only apply to non-trainee, practitioner applicants.

7. A written, dated, and signed statement by the applicant certifying, under penalty of perjury, that:

a. All information contained in the application is true and correct.

b. Has received a copy of this Chapter and understands its contents; and

c. Understands the duties of a massage practitioner as provided in this Chapter.

B. If any of the information provided in the application changes during the application process, the applicant must notify the Chief of Police or designee within ten (10) days.

C. The permit application does not authorize the applicant to act as a massage practitioner unless and until such permit has been properly granted.

D. Existing operator and massage practitioner permits shall continue in effect until expiration. All existing permit holders shall have an additional twenty-four (24) months from the effective date of this Chapter to meet and comply with the 500-hour training requirement.

5.16.110 Massage Practitioner and Trainee Permit Issuance and Denial.

A. The Chief of Police or designee shall evaluate each massage practitioner and trainee permit application and issue an approval, conditional approval or denial within sixty (60) days of receiving the complete application. The Chief of Police or designee may extend the evaluation period by an additional thirty (30) days if necessary to investigate the representations made in the application. The Chief of Police or designee shall approve a permit application unless:

1. The applicant:

a. Has been convicted of a violation of California Penal Code Sections 266, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 314, 315, 316, 318, 647(a), (b), or (d), or any other provision of law pursuant to which a person is required to register under the provisions of California Penal Code Section 290 or when the prosecution accepted a plea of guilty or *nolo contendere* to a charge of a violation of California Penal Code Section 415 or any lesser included or lesser related offense in satisfaction of, or as a substitute of, any of the previously listed crimes;

b. Has been convicted of a violation of California Health and Safety Code Section 11550 or any felony offense involving the sale of a controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057, or 11068;

c. Has been convicted in any other state which is the equivalent of any of the above-mentioned offenses; or

d. Has been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to California Penal Code Section 11225 *et seq.*, or any similar provisions of law in a jurisdiction outside the State of California.

2. The applicant has made a false, misleading, or fraudulent statement or omission of fact to the City during the permit application process;

3. The application does not contain all of the information required under this Chapter;

4. The applicant has not satisfied the requirements of this Chapter in the time specified.

B. If the application is denied, the applicant may not reapply for a six (6) month period from the date the application is denied.

5.16.120 Operation of a School of Massage Permit Application.

Every application for a school of massage shall be accompanied by:

A. Proof of approval from the CAMTC, pursuant to California Business and Professions Code Section 4600 *et seq.*;

B. A statement of the educational and experience qualifications, and the names and residence

addresses of all directors, administrators, and instructors;

C. A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness and absence grading policy, and rules of operation and conduct; and

D. A school of massage permit shall not be issued for the same location as a massage or bodywork establishment.

5.16.130 School of Massage Permit Issuance and Denial.

A. The Chief of Police or designee shall evaluate each permit application and issue an approval, conditional approval or denial within sixty (60) days of receiving the complete application. The Chief of Police or designee may extend the evaluation period by an additional thirty (30) days if necessary to investigate the representations made in the application. The Chief of Police or designee shall approve a permit application unless:

1. There are grounds for denial under Section 5.02.040;
2. The school of massage fails to meet any zoning, building and construction, and other relevant requirements under the Code;
3. The applicant has made a false, misleading, or fraudulent statement or omission of fact to the City during the permit application process;
4. The application does not contain all of the information required under this Chapter;
5. The applicant has not satisfied the requirements of this Chapter in the time specified.

B. If the application is denied, the applicant may not reapply for a six (6) month period from the date the application is denied.

5.16.140 Massage Facility Regulations and Requirements.

Unless otherwise specified, these regulations and requirements apply to all massage establishments, schools of massage, and massage practitioners:

A. Massage establishments and schools of massage shall be located in a zoning district which permits such use. Prior to a proposed massage establishment being constructed or opened for business, the seven (7) sets of plans submitted with the massage establishment permit application shall be distributed to the County Department of Health for approval.

B. A massage establishment shall have the equipment and supplies necessary for disinfecting and sterilizing instruments on the premises at all times.

C. A readable sign identifying the business as a massage establishment shall be conspicuously posted on the premises at all times in compliance with State and local laws. The hours of operation of the facility will also be conspicuously displayed in the premises. A massage establishment shall prominently display all City issued permits for the massage establishment

and its employees and all State issued certificates for its employees at the entrance or lobby of the premises.

D. Recognizable and legible signs shall be posted at all exits identifying each such exit in accordance with the requirements of the City's fire code and State regulations.

E. A list of available services, in bold letters not less than one inch in height, shall be conspicuously posted on the premises of the massage establishment at all times. The list shall include the cost of each service. The services provided shall not include baths. No services or activity shall be offered or performed except for those listed. No patron shall be charged more than the cost listed for the service provided.

F. The interior of the massage establishment shall maintain adequate illumination to make the conduct of employees, independent contractors, and clients within the premises readily discernible. No strobe or flashing lights shall be used.

G. All facilities within the massage establishment shall be kept in good repair and thoroughly cleaned and sanitized each day the business is in operation. All walls, floors, and ceilings of each restroom and shower area shall be made smooth and easily cleanable. No carpeting shall be installed in any of these areas.

H. A massage table shall be provided in each massage room and all massages shall be performed on a massage table. Every table should be at least eighteen (18) inches in height. Tables may have foam pads that are two (2) inches thick and no wider than four (4) feet. All tables shall be covered with durable, washable plastic or other waterproof material.

I. Massage establishments shall comply with all State and Federal laws and regulations for ensuring accessibility to disabled patrons or visitors.

J. Restroom facilities at the massage establishment shall include a minimum of one toilet and one wash basin. The restroom facilities shall be equipped with a permanently installed soap dispenser filled with soap, a single service towel dispenser or hand dryer, and hot water at all times. No bar soap may be used. A trash receptacle shall be provided in each toilet room. Showers may be provided.

K. All front, reception, hallway, or front exterior doors shall be unlocked during business hours, except as may be permitted by applicable laws allowing safety doors which may be opened from the inside when locked. All interior doors leading into massage rooms shall have unobstructed windows.

L. Doors used solely by employees to enter or exit the massage establishment may be locked during business hours.

M. A massage may not take place in a room fitted with any kind of lock, unless the door opens to the exterior of the building.

N. No operator granted a permit pursuant to this Section shall use any name or conduct business under any designation not specified in his or her permit.

5.16.150 **Massage Establishment Operation Regulations and Requirements.**

A. The massage establishment shall have a manager employed by the establishment on the premises at all times during hours of operation.

B. The following regulations will govern which persons are permitted in massage rooms:

1. No person, other than valid practitioners, employees of the establishment, registered patrons, and City inspectors, Peace Officers or code enforcement officials will be permitted in the massage rooms during hours of operation.

2. Clients and visitors shall be permitted in the massage establishment only during the hours of operation.

3. No visitors shall be permitted in massage therapy rooms except the parents or guardian of a minor child who is a client, a minor child when necessary for the client's supervision of the child, or the conservator, aide, or other caretaker of a client.

4. Except as provided in subsection (3), no visitors shall be permitted in massage therapy rooms, break rooms, dressing rooms, showers, or any other room or part of the massage establishment premises other than the reception, waiting area, or the restrooms.

5. Except for a client who is inside a massage therapy room for the purpose of receiving a massage, no clients or visitors shall be permitted in or on the massage establishment premises at any time who are less than fully clothed in outer garments of nontransparent material, or who display or expose themselves in underclothing or similar intimate apparel.

C. No massage establishment may discriminate or exclude patrons on the basis of race, sex, religion, age, handicap, or any other classification protected under Federal or State laws, rules, or regulations.

D. No person shall operate a massage establishment or perform any massage services in a massage establishment between the hours of 10:00 p.m. and 6:00 a.m.

E. It is unlawful for any person to use the massage establishment for residential purposes. All living quarters shall be separate from the massage establishment. No mattresses, beds, floor mattresses, waterbeds, or other bedding are allowed in a massage establishment or school of massage, with the exception of tables, sheets, and other bedding used for massages.

F. No food shall be sold or prepared at the massage establishment unless a food vending permit is granted by the County.

G. No person shall enter, be in or remain in any part of a massage establishment while in possession of, consuming, using, or under the influence of any alcoholic beverage or controlled

substance, unless the massage establishment has a current and valid California Department of Alcoholic Beverage Control license and all required City approvals.

H. No electrical, mechanical or artificial device for recording audio or video shall be used by the operator, manager or any employee of the massage establishment to record or monitor the performance of a massage or conversation or other sounds in the massage rooms without the knowledge or consent of the patron and the written consent of the police department.

I. Instruments, devices or paraphernalia that are designed for use or are used in connection with sexual activities, including but not limited to condoms, shall not be permitted within a massage establishment.

J. All payments for massage therapy services, including gratuities or tips, shall be made only in the designated reception and waiting area and not in the massage therapy room. Any gratuities or tips that are solicited from the client in violation of this provision shall be presumed to be for the purpose of committing a sexually related act and may be grounds for the suspension or revocation of the owner's massage establishment permit.

5.16.160 **Massage Practitioner Rules and Regulation.**

A. No massage practitioner shall massage the specified anatomical areas of any patron except that the female breasts may be massaged with the written consent of the individual receiving the massage and a referral from a State licensed medical practitioner. Nor shall any operator or manager of a massage establishment allow or permit massage of such areas by any employee. No operator or manager, while performing any task or service associated with the massage establishment, shall be present in any room with another person unless the person's specified anatomical areas are fully covered.

B. No massage practitioner shall massage any patron unless the patron's genitals, gluteal crease, anus and, in the case of a female patron, breast(s), are fully covered at all times while the practitioner is present in the same room as the patron.

C. A massage practitioner, owner, or person employed or retained by the massage establishment shall be fully clothed at all times. Clothing shall be of a fully opaque, nontransparent material and provide complete covering of the genitals, pubic area, buttocks, anal area, and chest. No person shall dress in swim attire if not providing a water-based massage modality approved by the CAMTC.

5.16.170 **Health and Safety Requirements.**

A. All patrons will be provided with clean, sanitary and opaque coverings capable of covering the patron's specified anatomical areas. No common use of such coverings shall be permitted, and re-use is prohibited unless adequately cleaned. Linens and towels shall be laundered or changed promptly after each use. Towels and linens shall not be shared among clients. Clean and soiled linens and towels shall be stored separately.

B. All massage professionals shall thoroughly wash his or her hands with soap and water or any equally effective cleansing agent immediately before providing massage therapy to a client. No

massage therapy shall be provided upon a surface of the skin or scalp of a client where such skin is inflamed, broken (e.g., abraded or cut), or where a skin infection or eruption is present.

C. The massage establishment shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens, and all massage tables shall be covered with a clean sheet or other clean covering for each client. After a towel, covering or linen has been used once, it shall be deposited in a closed receptacle and not used again until properly laundered and sanitized. Towels, coverings, and linens shall be laundered either by regular commercial laundering, or by a noncommercial laundering process that includes immersion in water at least one hundred and forty (140) degrees Fahrenheit for not less than fifteen (15) minutes during the washing or rinsing operation. Clean towels, coverings, and linens shall be stored in closed, clean cabinets when not in use. A massage professional engaged in the practice of out-call massage shall carry a sufficient quantity of clean and sanitary towels, sheets, and linens to comply with these requirements.

D. All massage therapy rooms or cubicles, wet and dry heat rooms, toilet rooms, shower compartments, hot tubs, and pools shall be thoroughly cleaned and disinfected as needed, and at least once each business day when the premises have been or will be open and such facilities in use. All bathtubs shall be thoroughly cleaned and disinfected after each use.

E. All liquids, creams or other preparations used on or made available to clients shall be kept in clean and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream, or other preparation is to be used on or made available to a client, it shall be removed from the container in such a way as not to contaminate the remaining portion.

F. No invasive procedures shall be performed on any client. Invasive procedures include, but are not limited to:

1. Application of electricity that contracts the muscle;
2. Penetration of the skin by metal needles;
3. Abrasion of the skin below the nonliving, epidermal layers;
4. Removal of skin by means of any razor-edged instrument or other device;
5. Use of any needle-like instrument for the purpose of extracting skin blemishes;
6. Other similar procedures.

G. All bathrobes, bathing suits, and other garments that are provided for the use of clients shall be fully disposable and not used by more than one client, or shall be laundered after each use pursuant to subsection (C).

H. All combs, brushes and other personal items of grooming or hygiene that are provided for the

use of clients shall be either fully disposable and not used by more than one client, or shall be fully disinfected after each use.

I. No clients shall be allowed to use any shower facilities of the massage establishment unless such clients are wearing slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of clients either shall be fully disposable and not used by more than one client, or shall be fully disinfected after each use.

J. No person afflicted with an infection or parasitic infestation capable of being transmitted to a client shall remain on the premises of a massage establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a client include, but are not limited to:

1. Cold, influenza or other respiratory illness which may or may not be accompanied by a fever, for seven (7) days after illness onset or until twenty-four (24) hours after the cessation of symptoms, whichever is longer;
2. Streptococcal pharyngitis (“strep throat”), until twenty-four (24) hours after treatment has been initiated and twenty-four (24) hours after the cessation of symptoms;
3. Purulent conjunctivitis (“pink eye”), until examined by a physician and approved for return to work;
4. Pertussis (“whooping cough”), until five (5) days of antibiotic therapy have been completed;
5. Varicella (“chicken pox”), until the sixth (6th) day after onset of rash or sooner if all lesions have dried and crusted;
6. Mumps, until nine (9) days after onset of parotid gland swelling;
7. Tuberculosis until a physician or local health department authority states that the person is noninfectious;
8. Impetigo (bacterial skin infection), until twenty-four (24) hours after treatment has begun;
9. Pediculosis (“head lice”), until there is no further infestation;
10. Scabies (“crabs”), until after treatment has been completed; and
11. Blood-borne diseases, such as HIV, AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this subsection.

5.16.180 Inspections.

A. During regular business hours, reasonable inspections may be conducted by the City and the City’s Building Division, Police Department, Fire Department and County Health Department for the purpose of ensuring compliance with local and State law and other applicable fire, health,

and safety requirements.

B. Routine inspections shall not occur more than twice (2) a year. However, additional inspections may be conducted if complaints are received or there is a reasonable suspicion that this Chapter has been violated. Nothing in this Chapter diminishes the authority of law enforcement to conduct criminal investigations as permitted by law. During an inspection, law enforcement may inspect occupied massage rooms and may confirm the identity of all on-duty employees.

C. It shall be unlawful for any person to impede or interfere with a lawful inspection of a massage establishment conducted by law enforcement during the posted hours of operation of the business. No massage establishment owner or operator shall install or utilize any signaling devices of any type to alert employees or clients to the presence of law enforcement personnel or any other government agency personnel.

D. The massage establishment owner shall take immediate action to correct each violation noted by the inspecting agency. A reinspection will be performed within thirty (30) days to ensure that each violation has been corrected.

E. Failure to correct the violations within thirty (30) days may lead to revocation or summary suspension of the massage establishment permit pursuant to Section 5.04.050, in addition to any other remedies prescribed by federal, state, and local laws.

5.16.190 Employment and Recordkeeping.

A. The operator shall maintain a roster of all persons who have worked at the massage establishment for the past two (2) years. The roster will include full legal names, nicknames, aliases, contact information, employment position, dates of employment and termination, if any, and duties of each employee.

B. It shall be unlawful for any owner, proprietor, manager or other person in charge of any massage establishment to employ any person who is not at least eighteen (18) years of age.

C. No owner, operator, manager or permittee in charge of a massage establishment or school of massage shall employ as a massage practitioner anyone who is not CAMTC certified.

D. Operators shall only use the name and shall only conduct business under the designation specified on his or her permit. While on duty, a massage practitioner shall not use any name other than that specified on the permit.

E. The massage practitioner shall wear a photo identification card prepared and issued by the City at all times when present in the massage establishment. Such identification shall be provided to City regulatory officials upon demand. The identification card shall be placed on outer clothing with the photo side facing out. If a massage practitioner changes his or her business address, he or she shall, prior to such change, obtain from the Chief of Police or designee a new photo identification card and advise the Police Department, in writing, of the new business address.

F. The operator shall report to the Chief of Police or designee any change of employees, whether by new or renewed employment, discharge or termination, on the form and in the manner required by the Chief of Police. The report shall contain the name of the employee and the date of hire or termination. The report shall be made within five (5) days of the date of hire or termination. The operator shall deliver the permit and photo identification card of any massage practitioner no longer employed by the operator to the Chief of Police or designee within five days of employment termination.

G. The operator shall report any and all changes of ownership or management of the massage establishment to the Chief of Police or designee within thirty (30) days of the change.

5.16.200 Advertisements and Solicitations.

A. No massage establishment shall place, publish or distribute, or cause to be placed, published or distributed, any obscene advertising matter.

B. It shall be unlawful to falsely state or advertise, or put out any sign or card or other device, or falsely represent to the public through any print or electronic media, that any person who is employed or retained to perform massage therapy for compensation is a CAMTC certified massage professional by use of the title “licensed,” “certified,” certified massage practitioner (CMP) or certified massage therapist (CMT), or the use of any other term that implies or suggests that the person is currently a CAMTC certified massage professional.

C. It shall be unlawful to fail to include the legal name under which any massage professional is certified and his or her CAMTC certificate number in any advertising of massage therapy for compensation. For the purposes of this Section, pseudonyms are not sufficient.

D. It shall be unlawful to publish or distribute any advertising matter or business identification card through any print or electronic media that are classified as for adults only or similar classification.

E. It shall be unlawful to publish or distribute any advertising matter or business identification card that is sexually suggestive or that would reasonably suggest that any service is available other than a massage as defined in this Chapter.

5.16.210 Regulation of Out-Call Massages.

A. It shall be unlawful to perform or administer a massage or bodywork techniques as out-call massage or bodywork within the City limits for money or other consideration without having a valid City business license and either being State certified or having a massage practitioner permit pursuant to this Chapter.

B. Out-call massage must be authorized in writing by a physician, surgeon, chiropractor, or osteopath duly licensed to practice in the State.

C. Out-call massage shall be conducted between 6:00 a.m. and 10:00 p.m.

5.16.220 Continuing Education.

On an annual basis, the massage practitioner shall complete no fewer than twelve (12) hours of continuing education in the practice of massage from a qualified massage educational program.

5.16.230 Insurance.

No person shall engage in, conduct, or carry on the business of a massage establishment without first filing with the Police Department, in full force and effect at all times, an insurance certificate from an insurance company authorized to do business in the State, evidencing that the operator is insured under a liability insurance policy for a minimum coverage of five hundred thousand dollars (\$500,000.00) for injury or death arising out of the operation of the massage establishment, including the administration of massages.

5.16.240 Massage Establishment Operator and Manager Responsibility.

The operator and on-duty manager of a massage establishment shall be responsible for the conduct of all employees while the employees are on the licensed premises. The operator shall be responsible for any act or omission of any employee constituting a violation of this Chapter and may have the operating permit revoked, suspended, or denied for such violations.

5.16.250 Notices.

A. The Chief of Police or designee may require that the following notice be posted in the event that any employee of the massage establishment or any person who has been aided and abetted by an employee of the massage establishment has been found, after full hearing by administrative proceeding or state court, to have violated any of the offenses listed in Sections 5.16.090 and 5.16.120.

B. The notice set forth below shall be prepared and issued by the Chief of Police or designee upon the issuance of a massage establishment permit or school of massage permit pursuant to Sections 5.16.090 and 5.16.140:

NOTICE TO ALL PATRONS

THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY THE CERES POLICE SERVICES WITHOUT PRIOR NOTICE.

C. The notices shall be conspicuously posted in a location within the massage establishment that are easily visible to any person entering the premises and in each massage room. The notice shall be so posted for twelve (12) months following the violation of any of the offenses set forth above.

D. The requirement for posting the notice described in this Section is cumulative and in addition to all other remedies, violations and penalties set forth in this Chapter or in the ordinances, laws, rules or regulations of the City, County, and the State of California.

5.16.260 Compliance with Code.

Operators, owners, managers, massage establishment employees, and massage practitioners shall comply with all provisions of this Chapter and any applicable provisions of the City's municipal code.

5.16.270 Changes of Business.

A. Every massage establishment operator shall report immediately to the Police Department any and all changes of ownership or management of the massage establishment or business, including, but not limited to, changes of manager or other person principally in charge, stockholders, officers, directors and partners, any and all changes of name, style or designation under which the business is to be conducted and all changes of address or telephone numbers of the massage business. A change of location of any of the premises may be approved by the Chief of Police, provided there is compliance with all applicable regulations of the City.

B. If the permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the permit, upon notification to the Chief of Police, shall be placed in the name of the surviving partners.

C. Upon the death or incapacity of a permittee, the massage establishment may continue in business for a reasonable period of time, not to exceed thirty (30) days, to allow for an orderly application of a new permit.

5.16.280 Transfer and Renewal of Permits.

A. No permit under this Chapter is transferable to any other person, entity, or establishment.

B. A change of location of a massage establishment must be approved by the Chief of Police. Any operator seeking to change the location of a massage establishment must file an application with and pay a change of location fee to the Chief of Police. The Chief of Police or designee shall approve the application for a change of location upon finding that the new location complies with the requirements of this Chapter.

C. No permittee shall operate under any name or conduct his business under any designation or at any location not specified in the permit. Any masseur, masseuse, instructor, trainee, or other employee may have a valid and unexpired permit transferred for use at any other massage establishment upon written application to the City Clerk accompanied by a nonrefundable five-dollar (\$5.00) transfer fee.

D. Permits for operators and employees shall be renewed on a yearly basis. Applications for renewal shall include proof of continuing education, a renewal fee, and any other information reasonably required by the Chief of Police or designee to evaluate whether the applicant is in compliance with this Chapter.

E. Permit renewals will be approved unless the Chief of Police or designee finds that the applicant has not completed the continuing education requirements or has violated this Chapter or another applicable State, Federal or local law.

F. Renewal permits shall be filed no later than sixty (60) days prior to the expiration of the existing permit to prevent a lapse of the permit.

5.16.290 Exemptions.

The requirements of this Chapter do not apply to:

A. State-licensed physicians, surgeons, chiropractors, physical therapists, osteopaths, or any registered or licensed vocational nurse working on the premises of, and under the direct supervision of, a State-licensed physician, surgeon, chiropractor, or osteopath. Practical nurses or other persons without qualifications as massage practitioners, whether employed by physicians, surgeons, chiropractors, or osteopaths or not, may not give massage or massage procedures;

B. Practitioners of reflexology who present to the Chief of Police or designee a certificate of proof of successful completion of classroom instruction in reflexology-related subjects dealing with feet, hands or ears, and reflexology practice from a reputable and licensed school of reflexology;

C. Hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the State;

D. Barbers, beauticians, cosmetologists, estheticians, and manicurists who are duly licensed under the laws of the State and who administer a massage in the normal course of their duties, provided, that such massage therapy is limited solely to the neck, face, scalp, feet, and lower limbs up to the knees, and hands and arms, of their clients;

E. Bona fide trainers or coaches or physical therapists of any amateur, semiprofessional, or professional athlete or athletic team and the facilities therefor;

F. Persons administering massages or health treatments involving massage to persons participating in single-occurrence athletic, recreational, or educational events such as road races, track meets, triathlons, educational events, or conferences; provided, that the event is open to the public or to a significant segment of the public such as employees of sponsoring or participating corporations, and the massage services are provided at the site of the event during, immediately preceding, or immediately following the event;

G. Somatic practitioners who use no physical touch of any kind at any time in their practice; or

H. Enrolled students of a school of massage when they are performing massage within the City as part of a formal supervised internship or training program operated by the school, without compensation other than school credit, on the premises of a massage establishment duly authorized to operate pursuant to the terms of this Chapter; and provided, that the owner of the massage establishment has first notified the Chief of Police or designee in writing of the name, residence address, and school of the students and the dates of the trainings.

Chapter 17

SIDEWALK VENDING

Sections:

5.17.010	Purpose.
5.17.020	Definitions.
5.17.030	Permit Required.
5.17.040	Permit Application.
5.17.050	Permit Issuance.
5.17.060	Operating Conditions.
5.17.070	Prohibited Activities.
5.17.080	Vending Locations.
5.17.090	Public Parks.
5.17.100	Penalties.
5.17.110	Appeals.

5.17.10 Purpose.

A. The purpose of this Chapter is to establish a permitting and regulatory program for sidewalk vendors that complies with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this Chapter allow the City to encourage small business activities by removing total prohibitions on portable food stands and merchandise sales, while still permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety, and welfare.

B. The City Council hereby finds that to promote the public's health, safety, and welfare, restrictions on sidewalk vending are necessary to:

1. Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles;
2. Provide reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, firefighting apparatus, mailboxes, as well as access to locations used for public transportation services;
3. Reduce exposure to the City for personal injury or property damage claims and litigation; and
4. Ensure sidewalk vending activities occur only in locations where such activities would not restrict sidewalk and pathway access and enjoyment to individuals with disabilities.

5.17.020 Definitions.

For the purposes of this Chapter, terms shall have the following meanings:

“Cannabis” shall have the same meaning as set forth in Business and Professions Code Section 26001(f) as it may be amended from time to time.

“Certified farmers’ market” means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code and any regulations adopted pursuant to that chapter.

“City” means the City of Ceres.

“Code” means the Ceres Municipal Code of the City of Ceres.

“County” means the County of Stanislaus.

“Curb face” means the vertical or sloping surface on the roadway side of the curb.

“Director” means the City Manager or his or her designee.

“Emergency vehicle access” means the roadway path or other surface that provides police, fire, or other safety vehicle access from the dispatched point of origin to a facility, building, parcel, park, or portion thereof. Emergency vehicle access includes, but is not limited to, fire lanes, public and private streets, alleys, parking lot lanes, access roadways, and walkways.

“Food” means any edible substance.

“Goods” or “merchandise” means any item that is not food.

“Health Department” means the Stanislaus County Department of Environmental Health

“Hearing officer” means an impartial individual designated by the City Manager to determine appeals pursuant to and in accordance with Chapter 5.05.

“Heating element” means any device used to create heat for food preparation.

“Park” means a public park owned and operated by the City.

“Private property” means any property, not owned or operated by a public entity, including parking lots for commercial and industrial uses.

“Public property” means all property owned or controlled by the City, including, but not limited to, alleys, parks, pathways, plazas, streets, parking lots, sidewalks, and walking trails.

“Residential” means any area zoned exclusively as residential in Code.

“Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk” means a public or private sidewalk or paved pedestrian path or walkway specifically designed for pedestrian travel.

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Special event” means any temporary permitted event approved by the City.

“Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location.

“Vend” or “vending” means to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase, food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

“Vendor” means a person who vends.

“Vending cart” means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

5.17.030 Permit Required.

No person shall engage in, conduct, or carry on the business of vending on a sidewalk or in a park without a sidewalk vendor permit issued under the provisions of this Chapter, a business license issued under the provisions of Chapter 5.02 of this Code, and any other required permits from the City, County, and State, if applicable.

5.17.040 Permit Application.

Every person, prior to engaging in, conducting, or carrying on the business of vending on a sidewalk, shall file an application for an sidewalk vendor permit with the Director, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

A. The legal name, current mailing address, current valid email address, and current valid telephone number of the applicant, together with the names of all persons directly or indirectly interested in the conduct of such business, including all members of a firm or partnership.;

B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal owners, including all owners of 10%) or more of corporate stock;

C. A copy of a valid California’s driver’s license or identification number, an individual taxpayer identification number, or a social security number. The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order;

D. The names, addresses, and telephone numbers of all persons that will be employed as a sidewalk vendor by the applicant;

E. Whether the applicant has at any time been convicted of a felony or of any offense involving moral turpitude or has been convicted of any narcotics violation;

F. Whether or not any permit or license heretofore granted to applicant to engage in any business or to do any act within the City or elsewhere has been revoked or denied, and if so, the circumstances surrounding the revocation or denial;

G. A description of the food and/or merchandise for vending;

H. A description, and a map or drawing (8.5" x 11" minimum size) of the areas in which the sidewalk vendor proposes to operate, providing dimensions (in feet or inches) to the nearest public street, building entrance, driveway access, etc.;

I. A description and photograph of any vending cart to be used in the operation of the business, including the dimension of the cart;

J. The hours per day and the days per week during which the sidewalk vendor proposes to operate, and whether the sidewalk vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;

K. Proof of comprehensive general liability insurance protecting the permittee and the City from all claims against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee. Such insurance shall name as additional insured the City and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the City; This insurance policy shall carry a minimum of \$1,000,000 general liability per occurrence and name the City of Ceres as additional insured.

L. An agreement by the applicant to indemnify and hold harmless the City, its officers and employees, for any claim, damages, actions, or causes of action which may arise from or in any manner relate to the permit or the vendor's sidewalk vending activities;

M. Food vendors must also comply with the following requirements:

1. Provide the Director a copy of the certification of completion of a Stanislaus County-approved food handler's course and copies of all required approvals from the Stanislaus County's Food Safety Program;
2. Provide the Director a copy of a valid Mobile Food Permit issued by the Stanislaus County Department of Environmental Health;
3. Indicate whether food is prepacked or to be prepared on site;
4. Indicate whether the vendor requires a heating element to prepare food.

5. Indicate where the employees will have access to sanitary facilities. If business location is used, the vendor must provide written proof that they have permission from the applicable business owner to access said sanitary facilities.

N. Certification by the applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and

O. Any other reasonable information required by the Director.

P. If located on any portion of private property, written consent from the property owner is required.

Applications for permits shall be filed a minimum of thirty (30) days prior to the desired date requested for issuance of the permit. Renewal permit applications shall be filed a minimum of thirty (30) days prior to the expiration of any existing permit.

5.17.050 Permit Issuance.

A. No later than thirty (30) days after the filing of a completed application for a sidewalk vendor's permit, the Director will notify the applicant of the City's decision on the issuance or denial of the permit request.

B. The Director may issue a sidewalk vendor permit, with appropriate conditions, if he or she finds based on all of the relevant information that:

1. The conduct of the sidewalk vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

2. The conduct of such sidewalk vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;

3. The sidewalk vendor has paid to the City any business operations tax required by Section 5.01.140.

4. The sidewalk vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this Chapter;

5. The sidewalk vendor has not had a permit revoked within the same calendar year;

6. The sidewalk vendor has not been convicted for a crime involving moral turpitude or has been convicted of any narcotics violation.

7. The sidewalk vendor's application contains all required information;

8. The sidewalk vendor has not made a materially false, misleading, or fraudulent statement of fact to the City in the application process;

9. The sidewalk vendor has satisfied all the requirements of this Chapter;

10. The sidewalk vendor has paid all applicable fees as set by City Council resolution.

C. A sidewalk vendor permit is non-transferable. Any change in ownership or operation of a sidewalk vendor or sidewalk vending cart requires a new permit under this Chapter.

D. A sidewalk vendor permit issued pursuant to this Chapter shall be effective for a period of one (1) year from the date of issuance.

E. If sidewalk vendor fails to carry insurance described in Section 5.17.040K in force and to properly renew said insurance, then the sidewalk vending permit shall be automatically revoked as of the date of expiration of such insurance.

5.17.060 Operating Conditions.

All sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:

A. All sidewalk vendor permits shall be displayed conspicuously at all times on the vending cart or the sidewalk vendor's person.

B. Sidewalk vendors shall not display more than one sign. The sign shall not exceed ten (10) square feet and shall be affixed to the sidewalk vending cart.

C. Sidewalk vendors shall not leave their sidewalk vending cart unattended. Sidewalk vending carts shall not be stored on public property.

D. All sidewalk vendors shall allow a City police officer, firefighter, or code enforcement officer, or other City of Ceres Employee, at any time, to inspect their sidewalk vending cart for compliance with the size requirements of this Chapter and to ensure the safe operation of any heating elements used to prepare food.

E. Every sidewalk vending cart shall not exceed a total length of six (6) feet, a total width of four (4) feet, or a total height, including a roof, umbrella, or awning of eight (8) feet.

F. No sidewalk vending cart shall be motorized.

G. All food and merchandise shall be stored either inside or affixed to the sidewalk vendor cart or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the sidewalk vendor cart, the overall space taken up by the sidewalk vendor cart shall not exceed the size requirements provided in this Section.

H. Sidewalk vendors that sell food shall maintain a trash container in or on their sidewalk vending cart and shall not empty their trash into public trashcans. The size of the vendor's trash container shall be taken into account when assessing the total size limit of a sidewalk vending cart. Sidewalk vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation.

I. Sidewalk vendors shall maintain the area within which vending activities occur in a clean, safe, sanitary and dust-controlled condition. With the exception of approved stands, Sidewalk vendors shall remove all evidence of vending and leave the site in a clean state at the close of each business day including any generated trash.

J. Sidewalk vendors may not empty vending cart trash containers into any City refuse container.

K. Sidewalk vendors shall immediately clean up any food, grease, or other fluid or item related to sidewalk vending activities that falls on public property.

L. Vending carts shall not be accompanied by accessories, including, but not limited to, tables, chairs, benches, and umbrellas except that one (1) chair and one (1) umbrella may be provided for the purpose of allowing the vendor or an employee to be seated in shade.

M. Sidewalk vendors shall maintain a minimum four (4) foot clear accessible path free from obstructions, including sidewalk vending carts, and customer queuing area.

N. Sidewalk vendors shall not approach persons to sell food or merchandise and shall not interfere in any way with anyone engaged in an activity to sell food or merchandise.

O. Sidewalk vendors shall comply with the Vehicle Code and Health and Safety Code.

P. Sidewalk vendors shall not operate in an unsafe manner, including but not limited to impeding on or off-site vehicle circulation and obstructing the view of pedestrians by motorists.

Q. Sidewalk vendors shall provide adequate lighting to ensure customer safety either on the vehicle or at the location of the vehicle during business hours.

R. If operating in parking lots on private property, sidewalk vendors shall not use or permit use of parking spaces on the property (e.g. for customer queuing, tables, portable restrooms, signs, and any other ancillary equipment) if doing so will adversely affect the required off-site parking available for primary uses(s) of the property during peak periods as determined by the Director.

S. Sidewalk vendors shall not stop or stand in any clear vision triangle or no parking zone.

T. Sidewalk vendors shall comply with all applicable City and government requirements, including without limitation, the Americans with Disabilities Act, health and safety regulations and local zoning regulations.

5.17.070 Prohibited Activities.

A. Sidewalk vendors shall comply with all operating conditions, including those conditions set forth in Section 5.17.080 and Section 5.17.090.

B. Sidewalk vendors and roaming sidewalk vendors shall not engage in any of the following activities:

1. Renting merchandise to customers;
2. Displaying merchandise or food that is not available for immediate sale;
3. Selling of adult-oriented material, cannabis, alcohol, tobacco, or electronic cigarette products;
4. In areas not zoned exclusively for residential use, all sidewalk vendors are prohibited from conducting sidewalk vending activities between the hours of 10:00 p.m. and 7:00 a.m. daily, except that the hours of operation shall not be more restrictive than the hours of operation imposed on other businesses or uses on the same street;
5. In areas zoned exclusively for residential use, roaming sidewalk vendors are prohibited from conducting sidewalk vending activities between the hours of 6:00 p.m. and 9:00 a.m. daily;
6. Knowingly making false statements or misrepresentations during the course of offering food or merchandise for sale;
7. Impeding or obstructing ingress to or egress from any private property or any structure, parking space or loading facility;
8. Selling or otherwise conducting transactions with persons in moving vehicles or vehicles illegally parked or stopped;
9. Causing vehicles to stop in traffic lanes or causing persons to stand in traffic lanes or parking spaces;
10. Vending in a manner that blocks or obstructs the free movement of vehicles, including parked vehicles;
11. Damaging public or private property, including trees, shrubs, grass, flowers, plants, or vegetation.
12. Use of sound, singing, vocalization, verbalization, and noise generating devices to draw attention to the vending location.
13. Use of off premise signs to advertise the vending location.

14. Placement of any signage that is not attached or directly affixed to the vending cart. In no circumstance shall attached or affixed signage exceed four (4) square feet.

5.17.080 Vending Locations.

A. Stationary sidewalk vending is prohibited in the following areas:

1. Any residential zone in the City.
2. Within three hundred fifty (350) feet of a public or private school in which children at or below the twelfth (12th) grade level are enrolled and which is in session.

B. Sidewalk vendors and roaming sidewalk vendors shall not engage in sidewalk vending activities at the following locations:

1. On any private property without the express written consent of the owner or lessee of the property.
2. On any designated emergency vehicle accessway.
3. Within twelve (12) inches of any curb face on all roads.
4. Within fifteen (15) feet of any entrance or exit to a building, structure or facility.
5. Within fifty (50) feet of another sidewalk vendor.
6. Within twenty-five (25) feet of a:
 - a. Fire hydrant;
 - b. Curb which has been designated as yellow or red zone, or a bus zone;
 - c. Trash or recycling containers, bike racks, benches, bus stops, or similar public use items.
7. On any sidewalk where vending equipment and queuing patrons would restrict access requirements under the Americans with Disabilities Act.
8. Within one-thousand (1,000) feet of a permitted certified farmers' market or swap meet during the limited operating hours of that certified farmers' market or swap meet.
9. Within one-thousand (1,000) feet of an area designated for a special event permit issued by the City, during the limited duration of the special permit. If the City provides any notice, business interruption mitigation, or other rights to affected businesses or property owners under the City's special permit, such notice will also be provided to any sidewalk vendors specifically permitted to operate in the area, if applicable.

C. Locations for vending shall be approved by the Director. In addition to any restrictions provided by this Section, vending locations may be further limited by the Director only if the limitation is directly related to objective health, safety or welfare concerns, including but not limited to:

1. The ability of the site to safely accommodate the use;
2. Pedestrian safety.

D. Vending locations may change only upon written request by an applicant and written approval by the Director.

5.17.090 Public Parks.

In addition to the conditions, restrictions, and prohibited activities provided in Sections 5.17.060 through 5.17.080 of this Code, sidewalk vendors operating in a public park shall not:

- A. Operate outside the park's hours of operation;
- B. Operate on, or within twenty-five (25) feet of, any sports field or playground equipment area;
- C. Utilize any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park in any way as part of the sidewalk vending operation;
- D. Operate within twenty-five (25) feet of any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park;
- E. A stationary sidewalk vendor shall not sell food or merchandise or engage in any sidewalk vending activities at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire. Said parks include Smyrna Park and River Bluff Regional Park. Stationary Sidewalk vending is not permitted within 1,000 feet of either of these two parks.

5.17.100 Penalties.

A. Violations of this Chapter shall not be prosecuted as infractions or misdemeanors and shall only be punished by the following administrative fine and rescission provisions:

1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation;
2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation; and
3. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.

B. If a sidewalk vendor violates any portion of this Chapter and cannot present the citing officer with a proof of a valid permit, the sidewalk vendor may be punished by:

1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation;
2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation; and
3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.

C. Upon proof of a valid permit issued by the City, the administrative fines set forth in subsection (B) shall be reduced to the administrative fines set forth in subsection (A), or any successor sections.

D. The Director may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

E. The Director may deny, suspend, or revoke any permit at any time for any of the following reasons:

1. Fraud or misrepresentation contained in the application for the permit;
2. Fraud or misrepresentation made in the course of carrying on the business of vending;
3. Conduct of the permitted business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, or welfare.
4. Complaints received about vending practices or operation of the vendor.

F. Denial, void, or revocation of the business license shall result in revocation of the vendor permit.

5.17.110 Appeals.

- A. Decisions to deny an application for a permit or to impose administrative fines may be appealed by any interested person. Appeals shall be heard and determined by the hearing officer.
- B. Appeals shall be initiated within twenty-one (21) calendar days of the decision or imposition of administrative fine. Notwithstanding any other provision of law, a person appealing an administrative fine is not required to pay the administrative fine as a prerequisite to filing an appeal.

- C. Appeals of decisions or administrative fines shall be made in writing to the hearing officer on forms provided by the City. The appeal shall state the facts and basis for the appeal.
- D. Appeals of a decision to deny an application for a permit shall be accompanied by a fee as established by resolution of the City Council.
- E. Decisions regarding administrative fines that are appealed shall not become effective until the appeal is resolved.
- F. An appeal shall be scheduled for a hearing before the hearing officer within thirty (30) calendar days of the filing of the appeal unless both the appellant and the hearing officer consent to a later date.
- G. The hearing officer shall give notice in writing to the appellant of the time and location of the appeal hearing. At the hearing, the hearing officer shall review the record of the decision or administrative fine and hear testimony of the appellant, if any, the applicant and any other interested party. The appeal shall be reviewed and determined on a de novo basis.
 - 1. If an administrative fine is the subject of an appeal, the hearing officer shall take into consideration the person's ability to pay the fine. The hearing officer shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at or before the hearing or while the administrative fine remains unpaid.
 - 2. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the hearing officer shall accept, in full satisfaction, twenty percent (20%) of the administrative fine imposed pursuant to this Chapter.
 - 3. The hearing officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.
- H. After the hearing, the hearing officer shall affirm, modify or reverse the original decision or administrative fine. When a decision or administrative fine is modified or reversed, the hearing officer shall state the specific reasons for modification or reversal. Decisions on appeals shall be rendered within thirty (30) calendar days of the close of the hearing. The hearing officer shall mail notice of a decision to the appellant. Such notice shall be mailed within five (5) working days after the date of the decision to the appellant. The decision of the hearing officer shall be final.

Chapter 18

GARAGE SALES

Sections:

- 5.18.010** **Definitions.**
- 5.18.020** **Purpose and Intent.**
- 5.18.030** **Who May Conduct a Garage Sale; Frequency of Sales.**
- 5.18.040** **Application for Permits.**
- 5.18.050** **Issuance of Permits.**
- 5.18.060** **Conduct of Garage Sales.**
- 5.18.070** **Duration of Sale.**
- 5.18.080** **Permit Applications Exceeding Two Garage Sales Per Twelve Month Period.**
- 5.18.090** **Exceptions.**

5.18.010 **Definitions.**

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

"Family unit" means all those persons who reside with the owner or occupant at the address of the residential unit.

"Garage sale" means a sale conducted by an individual home owner or occupant of a home, or apartment owner, or occupant of an apartment unit, or owner or occupant of any other residential or dwelling unit, for the purpose of selling, trading, bargaining, exchanging or otherwise disposing of unwanted or surplus household furnishings or goods, or other tangible personal property, usually conducted in a garage, on a patio, upon a driveway, or on or in any portion of premises in a residential zone, and for which no inventory or permanent or detailed records are kept on the transactions thus carried out. It may, at times, be conducted by a combination of residential dwellers at a single location. All sales designated, "lawn sale," "attic sale," "rummage sale," "moving sale," "flea market sale" or other terms of similar or like intent and having the foregoing characteristics and purposes are garage sales, excluding those sales held by charitable institutions on property owned and maintained by said institutions, and, excluding those sales sponsored by bona fide service clubs.

5.18.020 **Purpose and Intent.**

It is the intent and purpose of the City Council in adopting the ordinance codified in this Chapter to regulate those activities which in the most technical sense have business or commercial characteristics, but which, because of the manner in which they are conducted or the purposes for which they are being operated are truly noncommercial in nature. These regulations are intended to prevent the expansion of such noncommercial operations into truly commercial operations and to regulate the method of conducting the activity so that it will be confined to a noncommercial type of operation. It is the purpose of this Chapter to prevent such activities from unfairly

competing with licensed revenue-producing commercial and business enterprises; to prevent the conduct of commercial enterprises upon other than commercially-zoned property; and to curb the evasion of business license fees.

5.18.030 Who May Conduct a Garage Sale; Frequency of Sales.

A. Garage sales may be conducted by the following persons:

1. The owner of any residential unit within the City, or a member of the owner's family unit, provided such persons are actually residing upon said premises as their principal place of residence.
2. The occupant of any residential unit within the City, or a member of the occupant's family unit, provided such persons are actually residing upon the premises as their principal place of residence pursuant to a rental or lease agreement with the owner of the premises.
3. No more than two (2) garage sales shall be conducted at any residential unit within the City during a twelve (12) month period by the persons permitted to conduct such sales pursuant to this Section. The twelve (12) month period shall commence on the date of the first garage sale.

B. In determining the number of garage sales conducted during the twelve (12) month period at the residential unit, all sales conducted by the owner, occupant, or member of the owner's or occupant's family unit shall be included. The City Manager shall have the discretion to determine whether an applicant may conduct a garage sale if that individual demonstrates to the City Manager's satisfaction a compelling justification for not meeting the requirements in this Section.

5.18.040 Application for Permits.

Persons authorized to conduct garage sales pursuant to this Chapter shall make verified application in a form satisfactory to the Finance Department. The application shall contain the following:

A. The name of the applicant and copy of a government ID or driver license;

B. The address of the applicant;

C. The location of the proposed garage sale;

D. The date or dates upon which it is proposed to conduct the garage sale;

E. The date or dates of any prior garage sales held at the residence;

F. A statement that the applicant is either an owner/occupant, a renter/lessee, or a member of the family unit of such owner/occupant or renter/lessee. In the discretion of the Finance Department, the applicant may be required to provide verification of applicant's ownership, occupancy or

family unit status in a form satisfactory to the Director of Finance.

G. Any fees as provided by Section 5.02.010.

5.18.050 Issuance of Permits.

Upon receipt of the application, the Finance Director shall issue the permit to the applicant provided that the Director of Finance determines that all of the provisions of this Chapter have been met. The permit shall specify the following:

A. The name of the permittee;

B. The exact address or location where the garage sale is to be conducted;

C. The date or dates upon which the sale is to be conducted;

D. The hours of the day during which said sale is to be conducted;

E. The requirement that only one sign may be used to advertise said sale, which sign shall be displayed only at the sale, only during the date or dates and hours of said sale, and the further requirement that said sign shall not exceed six (6) square feet in area nor six feet (6') in height;

F. A general description of the property to be offered for sale;

G. The requirement that the permit shall be revoked for failure to comply with all terms and conditions thereof, or the provisions of this Chapter, or other applicable provisions of law;

H. The requirement that the permit shall be prominently displayed at the location of the garage sale; and,

I. Such other conditions relating to the promotion, advertising, and conducting of the garage sale which, in the opinion of the Police Chief, are necessary or proper for the preservation of the peace, elimination of traffic hazards, safety of pedestrians, preservation of public or private property, or like or similar matters.

5.18.060 Conduct of Garage Sales.

A. Sale items shall be limited to the personal property of permit applicant and his or her immediate family. Sale of items acquired for resale or consignment shall be prohibited.

B. The City shall issue no more than one (1) permit to an individual in a four (4) month period.

C. The permit must be displayed on the garage sale premises while the garage sale is operated.

D. Garage sales shall not be operated between the hours of 7:00 p.m. and 8:00 a.m.

E. Goods for sale shall not be placed in any public right-of-way nor shall goods be left out in an open area visible to the public before or after the sale.

5.18.070 Duration of Sale.

No garage sale permit shall be issued permitting the promotion, advertising, or conducting of a garage sale for more than three (3) consecutive days or for more than two (2) consecutive Saturdays and Sundays.

5.18.080 Permit Applications Exceeding Two Garage Sales Per Twelve Month Period.

For the third and subsequent garage sale in any consecutive twelve (12) month period, the applicant must apply for a conditional use permit from the Ceres Planning Commission and pay all appropriate fees.

5.18.090 Exceptions.

This Chapter shall not apply to the following persons:

- A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction;
- B. Persons acting in accordance with their powers and duties as public officials; or
- C. Churches, public schools, or charitable organizations, where the sale is conducted on the organization's property.

Chapter 19

BINGO

Sections:

- 5.19.010 Bingo Authorized.**
- 5.19.020 License Required.**
- 5.19.030 License Posted.**
- 5.19.040 Eligible Organizations.**
- 5.19.050 Bingo Application.**
- 5.19.060 License Not Transferable.**
- 5.19.070 Chief of Police Entry and Inspection.**
- 5.19.080 Chief of Police Investigation.**
- 5.19.090 Summary Suspension or Revocation.**
- 5.19.100 Enforcement.**

5.19.010 Bingo Authorized.

Bingo games are allowed pursuant to and as restricted by Article IV, section 19(c) of the California Constitution, Penal Code section 326.5 (including future amendments thereto), and the provisions of this Section.

5.19.020 License Required.

No charitable organization shall conduct a Bingo game without a currently valid, unrevoked, unsuspended license as provided for by this Section. No person shall promote, supervise, operate, conduct, or staff any Bingo game, or participate in such activity, unless he is a member of a charitable organization which is lawfully licensed to do so and which has designated him to do so and he is designated in its license to do so.

5.19.030 License Posted.

An organization licensed pursuant to this Section shall not conduct or permit to be conducted a Bingo game unless said license is posted in a conspicuous place during the conduct of any Bingo game. The licensee shall produce and exhibit the same, when applying for renewal thereof, and whenever requested to do so by any peace officer or officer authorized to issue, or inspect licenses.

5.19.040 Eligible Organizations.

Such permits may be issued only to charitable organizations as defined by Penal Code section 326.5(a).

5.19.050 Bingo Application.

The application for a license to conduct Bingo shall be made to the Chief of Police on forms provided by his or her office. The application shall include the following information:

A. The name, address, date and place of birth, physical description, and driver's license number of every officer of the charitable organization;

- B. The name, address, date and place of birth, physical description, and driver's license number of not more than twenty (20) members to be authorized to operate Bingo on behalf of the organization;
- C. The date(s) and location(s) of the proposed Bingo game(s);
- D. Proof that the organization is a charitable organization as defined by Penal Code section 326.5(a);
- E. The signatures of at least two (2) officers, including the presiding officer of the organization;
- F. A statement certified by the secretary of the organization that the applicant has received and has reviewed copies of this Chapter, the authorized rules of play for bingo games, and Penal Code section 326.5, and has been advised that the license to conduct bingo games may be revoked by the Chief of Police upon violation of any of such provisions;
- G. The location where all records, account books and ledgers pertaining to the operation of bingo games by the organization will be kept, the location of the bank account in which the bingo receipts will be placed, and an authorization for the City to inspect and audit the records, books and accounts; and
- H. Such other information as the Chief of Police may require.

5.19.060 License Not Transferable.

Each license shall be issued to a specific charitable organization authorizing not more than twenty (20) named members to conduct a Bingo game on its behalf at one (1) or more named locations. This license is not transferable from organization to another, from one member to another, or from one location to another. The license is only a temporary and non-transferable permit to act within the provisions of this Section and all other applicable laws and regulations, and always expires no later than one (1) year from its date. It has no validity when it has been seized, suspended, or revoked by the Chief of Police. Any attempt to transfer, assign, pledge, mortgage, or hypothecate the license, or to attach or execute on it, immediately and permanently voids it.

5.19.070 Chief of Police Entry and Inspection.

The application for and acceptance of a license constitutes consent to the entry of any peace officer or code enforcement officer to investigate all locations identified in the application before the issuance of a license as well as during any games thereafter and consent to the Chief of Police or his agents reviewing or auditing the charitable organization's records relating to the conduct of Bingo and to the special account required by Penal Code section 326.5(j), for the purpose of verifying compliance with the financial interest and special fund requirements of Penal Code section 326.5 and with this Section and all other applicable laws and regulations.

5.19.080 Chief of Police Investigation.

Upon receipt of the completed application, the Chief of Police shall make an investigation to determine if all of the statements in the application are true and shall refer the application to the

Director of Planning and Community Development, the Chief Building Official, the Health Officer and the Fire Chief to determine if the appropriate zoning regulations, building codes, health regulations and the provisions of the Uniform Fire Code have been or will be complied with. The Chief of Police may refuse to issue a permit based on Section 5.02.040 and if any officer of the organization or any operator mentioned in 5.19.050:

- A. Has a felony conviction;
- B. Has a conviction for theft, fraud, gambling, crimes involving moral turpitude or bingo ordinance violations in this or any other city or county;
- C. Is under current investigation for a criminal offense set forth in subsections A and B of this Section by any law enforcement agency.

5.19.090 Summary Suspension or Revocation.

A. In addition to the grounds in Section 5.04.050, the Chief of Police may immediately suspend or revoke a Bingo license upon the licensee's refusal to:

- 1. Permit the entry of any peace officer to investigate the conduct of a Bingo game;
- 2. Permit the Chief of Police to review or audit the charitable organization's records relating to the conduct of Bingo under the license and to the special account required by Penal Code section 326.5(j);
- 3. Failure to meet the provisions of this Chapter and Chapter 9.18.
- 4. For any reason in Chapter 5.04.

B. Upon taking such action, the Chief of Police shall within forty-eight (48) hours serve on the licensee a written statement of the reasons for this action, and schedule a show cause hearing on re-instatement of the license within five (5) days of a request to do so by the licensee.

C. The Chief of Police shall issue his written decision within seven (7) days after the conclusion of a show cause hearing.

5.19.100 Enforcement.

Bingo permit holders shall also be subject to Chapter. 9.18.

Chapter 20

FIREWORKS SALES

Sections:

- 5.20.010 Definitions.**
- 5.20.020 Permit Required.**
- 5.20.030 Permit Applications.**
- 5.20.040 Issuance of Permits.**
- 5.20.050 Fireworks Sales Booth.**
- 5.20.060 Fireworks Sales.**
- 5.20.070 Storage of Fireworks.**
- 5.20.080 Permittee Safety Training.**
- 5.20.090 Rules, Regulations, and Enforcement.**
- 5.20.100 Dangerous Fireworks Prohibited.**
- 5.20.110 Penalties.**

5.20.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

"Applicant" means the person that files an application for a permit.

"Fire Chief" means the Fire Chief or designated representative.

"Dangerous fireworks" has the same meaning as that term is defined by Health and Safety Code Section 12505.

"Fireworks sales booth" means the booth, stand, or other approved temporary structure used for the purpose of selling safe and sane fireworks.

"Local nonprofit organization" means a nonprofit organization that:

1. Has a primary meeting place within the official sphere of influence of the City of Ceres, as approved by the Local Agency Formation Commission;
2. Has been organized and established within the City of Ceres' sphere of influence for a minimum of one continuous year preceding the filing of the application for a permit; and
3. Has a bona fide membership of at least ten (10) members who reside in the City of Ceres.

"Nonprofit organization" means any nonprofit association or corporation organized primarily for veteran, patriotic, welfare, religious, civic betterment or charitable purposes, which has been issued a tax exempt certificate as required under the California Revenue and Taxation Code or a

group that is an integral part of a recognized national organization having such a tax exempt status.

"Owner-occupant" means the record owner of real property as listed in the most current equalized assessment roll as maintained by the Stanislaus County Assessor.

"Permit" means a permit for the sale of safe and sane fireworks issued pursuant to Section 5.20.030.

"Permittee" means a local nonprofit organization that has received a permit for the sale of safe and sane fireworks.

"Responsible party" means any person with an ownership interest or right of possession of the real property where unpermitted fireworks are possessed, sold, used, manufactured or discharged, including, but not limited to:

1. Any owner-occupant.
2. Any lessee, subtenant, licensee, or other person having possessory control over a property, structure, or parcel of land.
3. Any person that organizes, supervises, officiates, conducts, or controls the gathering or any other person accepting responsibility for such a gathering.

"Safe and sane fireworks" has the same meaning as that term is defined by California Health and Safety Code section 12529. All safe and sane fireworks shall be approved by the California Fire Marshal and labeled as safe and sane.

5.20.020 Permit Required.

- A. Permits shall only be issued for the sale of safe and sane fireworks.
- B. The total number of sales permits issued in any given year shall be limited to one (1) permit per each two thousand five hundred (2,500) residents, or portion thereof, of the City.
- C. Permits for the sale of safe and sane fireworks under the provisions of this Chapter shall be issued only to local nonprofit organizations.
- D. A local nonprofit organization shall be limited to a maximum of one (1) permit.
- E. A permit is not transferable. The permit may be used only by the permittee to whom it is issued for the purpose of operating a single fireworks sales booth at the approved location as indicated on the permit.

5.20.030 Permit Applications.

- A. The Fire Chief shall cause to be prepared a standard application for a permit. In addition to the requirements of Section 5.02.010 the permit application shall include all of the following:

1. Proper identification and signature of the applicant.
2. A proposed location of the fireworks sales booth that includes the nine (9) digit accessor's parcel number of the Stanislaus County Assessor.
3. Proof of safety training.
4. A site plan for the fireworks sales booth.
5. The written consent of the owner of the property upon which the proposed fireworks sales booth will be located.
6. A nonrefundable applicable fee as established by resolution of the City Council pursuant to Section 9.30.120.
7. Any other reasonable information that the Fire Chief may deem necessary to properly implement and administer the provisions of this Chapter.

B. Applications shall be submitted during normal business hours from April 15 through June 15 of the same year.

C. All applications shall be submitted to the Fire Chief on or before June 15 of each year. Each application must be complete and contain all required information. Any application that is not properly completed and submitted to the office of the Fire Chief by five o'clock (5:00) P.M. on June 15 will not be considered.

D. The Fire Chief or his or her designee shall review all submitted applications, and may consult with the Departments of Public Works, Engineering Services, and Community Development to ensure that the proposed location meets existing zoning regulations and does not create pedestrian or vehicular traffic hazards.

5.20.040 Issuance of Permits.

A. The Fire Chief or his or her designee shall issue a permit to each qualified applicant who has submitted a timely completed application, unless the number of qualified applicants exceed the number of available permits. Each permittee shall comply with all of the provisions of this Chapter and such rules and regulations as may be established by the Fire Chief pursuant to the authority granted in Section 5.20.090 of this Chapter.

B. If the number of qualified applicants exceed the number of available permits specified in Section 5.20.020B, the Fire Chief shall hold a lottery to award permits. The lottery shall be held on the next business following last day of the filing period specified in Section 5.20.030. The lottery shall include the names of all qualified applicants.

C. Permits shall be issued subject to a final inspection of an applicant's fireworks sales booth pursuant to Section 5.20.050.

5.20.050 Fireworks Sales Booth.

A. A permittee shall not allow any person other than the individuals who are members of the permittee organization, their spouses or adult children, or volunteers to whom no compensation is paid, to sell, operate, or otherwise participate in the sale or profits of fireworks at a fireworks sales booth.

B. A permittee shall not pay any consideration to any person for selling or otherwise participating in the sale of fireworks at such booth, except the hiring of a night watchman or security officer.

C. A fireworks sales booth shall not be set up before an application for permit has been approved.

D. A copy of the permit shall be posted in a conspicuous location within the interior portion of the fireworks sales booth at all times.

E. A sign shall be affixed to the front exterior portion of the fireworks booth in letters at least six inches (6") in height, identifying the name of the local nonprofit organization to which the permit was issued.

F. All fireworks sales booths shall be located only upon property that is zoned for commercial or industrial uses.

G. Each applicant shall be limited to one permit, which shall authorize the sale of safe and sane fireworks at only the approved site location shown on the permit.

H. Each proposed fireworks sales booth shall be required to meet and comply with all regulations and site location requirements established by the California Fire Marshal.

I. All permittees shall pass an inspection of their fireworks sales booth. If a permittee fails to pass an inspection, there shall be a reinspection fee charged for any subsequent inspection.

5.20.060 Fireworks Sales.

A. Safe and sane fireworks may only be sold or offered for sale from noon (12:00) P.M. to ten o'clock (10:00) P.M. on June 28 and from nine o'clock (9:00) A.M. to ten o'clock (10:00) P.M. from June 29 through July 6.

B. Each of the following are mandatory point-of-sale safety requirements:

1. No person under the age of eighteen (18) shall sell, or handle for sale, any fireworks.

2. No person under the age of eighteen (18) shall purchase or be allowed to purchase any fireworks.

3. Smoking, open flame, or spark-producing equipment shall be prohibited for a distance of

one hundred feet (100') in all directions of a fireworks sale booth.

4. Dry grass, weeds, trash, and all other combustible material shall be removed for a distance of one hundred feet (100') in all directions of a fireworks sale booth.

5. Fireworks shall not be discharged within one hundred fifty feet (150') in all directions of a fireworks sale booth.

C. Merchandise may be displayed in an approved glass-enclosed counter or showcase, or displayed in fireworks sale booths constructed in the following manner:

1. Walls and roof shall be of plywood at least one-third-inch ($\frac{1}{3}$ ") thickness or of an approved noncombustible material.

2. The fireworks sale booth shall have a roof.

3. Notwithstanding an exit door, walls shall extend to a minimum height of six feet (6'), eight inches (8") on at least three (3) sides. These three (3) sides shall not have any openings.

4. Two (2) exit doors shall be provided in each fireworks sale booth, with a minimum size of twenty-four inches (24") in width and six feet (6') in height. Exits shall be maintained clear and unobstructed at all times while open to the public.

5. The front wall of the fireworks sale booth shall provide a physical barrier not less than eighteen inches (18") in height between the public and the merchandise on display.

6. Approved "NO SMOKING" signs shall be securely fastened to the fireworks sale booth and prominently displayed in and on the exterior of the stand.

7. Approved "NO SALES TO PERSONS UNDER THE AGE OF 18" signs shall be securely fastened to the fireworks sale booth and prominently displayed in and on the exterior of the booth.

8. An approved fire extinguisher having a minimum U.L. classification of 2A shall be located in the fireworks sale booth near the exit and be readily accessible.

5.20.070 Storage of Fireworks.

A. Permittees may only store safe and sane fireworks within the City solely during the period of June 22 through July 15 of each year.

B. Safe and sane fireworks that are not being sold or displayed with the intent to sell shall be stored in the following manners:

1. Within the permitted fireworks sale booth with a responsible adult on the premises at all times.

2. In a completely enclosed and locked utility type trailer constructed of one-quarter-inch (1/4") plywood or other approved noncombustible material.
3. In a completely detached garage on residential property with a minimum of ten-foot (10') clearance to other structures or property lines. There shall be no open flame or spark producing equipment, or Class 1 flammable liquids stored or used within the garage.
4. Fireworks shall not be stored within one hundred feet (100') of any building classified or used as a public or private school, day care facility, residential care facility, hospital, place of detention, public oil/gas station, or public garage, or any place of public assembly that can accommodate fifty (50) or more persons.
5. The following information shall be submitted to and approved by the Fire Chief will be required:
 - a. Storage location.
 - b. Description of storage facility.

5.20.080 Permitee Safety Training.

Each calendar year one or more representatives from each permittee shall attend a fireworks sales booth safety seminar conducted by the Fire Department or the fireworks industry. Failure to attend the seminar shall result in the revocation of the permittee's permit for that calendar year.

5.20.090 Rules, Regulations, and Enforcement.

A. The Fire Chief shall have authority to adopt and implement such administrative rules and regulations as may be required to:

1. Provide for the orderly administration of this Chapter;
2. To insure compliance with all rules and regulations required by State law and the rules and regulations of the State Fire Marshal; and
3. Insure the safety of the booth structure and the sales operations.

B. The Fire Chief, or his authorized designee, shall serve as the enforcement officer, and shall be responsible for the enforcement of the provisions of this Chapter. Sworn Peace Officers and other City staff with training in the powers of arrest and designated by the Police Chief or Fire Chief are also authorized to enforce this Chapter.

C. In addition to the penalties set forth in Section 5.20.110, the Fire Chief shall have the authority to immediately suspend or revoke the permit of any permittee that has conducted its operations in violation of any of the provisions of this Chapter, State law, or the rules and regulations of the State Fire Marshal.

D. Upon suspension or revocation of a permit, the permittee shall immediately cease all fireworks sales. The Fire Chief shall inform the permittee that the permittee may seek review of the Fire Chief's decision pursuant to Chapter 5.05. Within two (2) business days after suspension or revocation, the Fire Chief shall provide the City Manager with written notice that a permit has been suspended or revoked. Notice shall include the name of the permittee and a brief statement of the grounds for suspension or revocation. Suspension or revocation of any permit shall be effective for the current calendar year.

5.20.100 Dangerous Fireworks Prohibited.

A person shall not sell, use, possess, manufacture, or discharge dangerous fireworks within the City.

5.20.110 Penalties.

A. In addition to any other remedies set forth in this Title, administrative penalties may be imposed against any responsible party for violations of this Chapter. The administrative penalty for violations of this Chapter shall be one thousand dollars (\$1,000.00) or imprisonment of a period not exceeding six (6) months.

B. Every owner, occupant, lessee, tenant, or holder of any possessory interest of a residence or other private property within the City is required to maintain, manage and supervise property and all persons thereon in a manner so as not to violate the provisions of this Chapter. A responsible party need not be present at the time dangerous fireworks are possessed, manufactured, sold, used, or discharged in order for the City to issue an administrative citation under this Section.

C. Nothing in this Section shall be intended to limit any of the penalties provided for under the Health and Safety Code or Penal Code.

Chapter 21

AMBULANCES

Sections:

- 5.21.010 Definitions.**
- 5.21.020 Purpose and Intent.**
- 5.21.030 Permit Required; Exceptions.**
- 5.21.040 Ambulance Service Operator's Permit, Application, Contents.**
- 5.21.050 Permit Application; Investigation.**
- 5.21.060 Public Hearing.**
- 5.21.070 Public Hearing; Notice.**
- 5.21.080 Grant of Permit Application.**
- 5.21.090 Issuance of Permit/Contents/Conditions.**
- 5.21.100 Permit Posting Requirements.**
- 5.21.110 Required Insurance.**
- 5.21.120 Permit Transfer.**
- 5.21.130 Equipment and Maintenance.**
- 5.21.140 Additional Vehicles.**
- 5.21.150 Substitute Vehicles.**

5.21.010 Definitions.

For the purpose of this Chapter, and except where otherwise expressly defined in another section of this Chapter, the following words and phrases shall have the meanings provided in this Section. Where words and phrases are not expressly defined under this Chapter, they shall be construed as their ordinary meaning within the context which they are used:

“Advanced life support” means special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base hospital as part of a local EMS system at the scene of an emergency, during transport to an acute care hospital, during interfacility transfer, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency or other medical staff of that hospital.

“Ambulance” means a motor vehicle constructed, modified, equipped, and used or offered to be used, for the purpose of transporting sick, injured, invalid, convalescent, infirm or otherwise incapacitated persons.

“Ambulance service” means the activity, business or service, for hire, profit or otherwise, of transporting one or more persons by ambulance.

“Ambulance service operator” means any person who operates or owns an ambulance service.

“Applicant” means the person, or business entity that makes application to the City for an ambulance service operator's permit pursuant to the provisions of this Chapter.

“Basic life support” means emergency first aid and cardiopulmonary resuscitation procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life without invasive techniques until the victim may be transported or until advanced life support is available.

“Permittee” means any ambulance service which possesses a current permit to provide ambulance service within the City of Ceres.

5.21.020 Purpose and Intent.

It is the purpose and intent of this Chapter to establish general operating procedures and standards for medical transportation services operating within the City in both emergency and other situations. The City Council, in enacting the Ordinance codified in this Chapter, intends to provide a fair and impartial means of allowing responsible private ambulance service operators to provide emergency and nonemergency services within the City and to ensure that such service is prompt, efficient, and in the best interest of the citizens of the community. It is the further intent and purpose of the City Council to declare its intention to retain all of its legal right and authority under law to engage in the business of providing such services to the citizens of its community to the exclusion of private providers, should the City determine that its provision of such services is in the best interest of the community and its citizens.

5.21.030 Permit Required; Exceptions.

It is unlawful for any person, either as owner, employee or otherwise, to operate an ambulance, or to engage in business as an ambulance service operator, upon the streets or any public way or place in the City without first having secured and maintained a valid permit as required by this Chapter, except the provisions of this Chapter shall not apply to:

- A. Any ambulance operated by or on behalf of the City.
- B. Any vehicle operated as an ambulance at the request of local authorities during wartime emergency, duly proclaimed state of emergency or local emergency as defined by the California Emergency Services Act.
- C. Ambulance service transporting a patient from a location outside of the City regardless of destination.

5.21.040 Ambulance Service Operator’s Permit, Application, Contents.

An applicant for an ambulance service operator's permit shall file an application with the Fire Chief, which application shall contain at least the following information, and such other information as the Fire Chief may deem proper and necessary to evaluate the applicant's qualifications and proposed operation.

- A. The names and the business and residential addresses of each principal having any interest in

the ownership or operation of the proposed ambulance service and the percentage financial interest of each such principal.

B. The applicant's training and experience in the transportation and care of patients.

C. All business names presently used by the applicant, all business names used in the past, and all proposed business names regarding the provision of ambulance services.

D. A description of each ambulance including the make, model, year of manufacture, vehicle identification number, current State license number, the length of time the vehicle has been in use, and the color scheme, insignia, name, monogram, and other distinguishing characteristics of the vehicle, a description of the company's program for maintenance of the vehicle, and a description of the vehicle's radio communication system.

E. Proof that the applicant has obtained all licenses and permits required by State or local law or regulation for the type of ambulance service proposed.

F. The names, addresses, and qualifications of each attendant, driver or dispatcher employed, or to be employed, in providing the proposed ambulance service.

G. Proof that the applicant possesses and maintains currently valid California Highway Patrol inspection certificates for each vehicle listed for service.

H. A description of the applicant's training and orientation programs for attendants, drivers and dispatchers.

I. Such evidence of financial responsibility as may be required by the Fire Chief

J. Identification of the geographical area proposed to be served by the applicant.

K. A list of all of the offices where equipment and personnel are, or will be based, including hours of operation.

L. A description of whether the service proposed by the applicant will include basic life support services or advanced life support services, and, if so:

1. The number of basic life support or advanced life support service units to be deployed on each shift; and,

2. The provision, if any, for continuing education of attendants.

M. Each principal of the proposed applicant shall provide a current fingerprint receipt issued by the Police Chief or by another State agency which is approved by the Director, indicating that each principal of the applicant has undergone a complete criminal history check, followed by a report from the Police Department showing no conviction of crimes which would be in violation of the provision of this Chapter.

5.21.050 Permit Application; Investigation.

Upon receipt of a completed application and the required fee, the Fire Chief shall make, or cause to be made, such investigation as he deems necessary to determine if:

- A. The applicant is a responsible and proper person to conduct, operate or engage in the provision of ambulance services;
- B. The applicant meets the requirements of this Chapter and of other applicable laws, ordinances or regulations; and,
- C. The public convenience and necessity require the granting of a permit.

5.21.060 Public Hearing.

Upon the filing of a fully completed application for the permit to engage in the business of operating an ambulance service and the completion of the investigation by the Fire Chief, the City Manager shall fix a time for a public hearing thereon before the City Council for the purpose of determining whether the public convenience and necessity require the proposed service. No permit shall be granted until the City Council shall, after investigation and hearing, declare by Resolution that the public convenience and necessity require the proposed service and that the same will promote the convenience, safety and welfare of the general public.

5.21.070 Public Hearing; Notice.

Written notice of such hearing shall be given to all persons who have been issued permits for operation of ambulances. Due notice of the time and place of the public hearing before the City Council shall also be given to the general public by causing a notice of such hearing to be published in a newspaper of general circulation of the City at least ten (10) days before the hearing.

5.21.080 Grant of Permit Application.

In addition to the grounds discussed in Section 5.21.050, the City Council shall either grant, by simple majority vote, the application if it finds:

- A. That the vehicles described in the application and proposed to be used are adequate and safe for carrying or transporting wounded, injured or sick persons;
- B. That the color scheme, insignia, name, monogram or other distinguishing characteristics proposed to be used upon such ambulance or ambulances is not in conflict with and does not imitate any color scheme, insignia, name, monogram or other distinguishing characteristics used by any other person, in such manner as to mislead or tend to mislead, deceive or defraud the public; and
- C. That further ambulance service in the City is required by the public convenience and necessity and that the applicant is fit, willing and able to perform ambulance service and to conform to the provisions of this Chapter, and such rules and regulations as may be promulgated by the City Council. In making such findings, the City Council shall take into consideration the number of

ambulances already in operation, whether existing ambulance service is adequate to meet the public need, the probable effect of increased ambulance service on local traffic conditions, and the character, experience and responsibility of the applicant.

D. In evaluating the character, fitness, and responsibility of the applicant, the City Council shall have the discretion to deny the permit if it finds that the applicant, or any principal of the applicant, has engaged in any of the following conduct:

1. Was previously the holder of a permit granted by the City which was revoked or not extended, and the circumstances upon which the revocation or non-extension were based have not been corrected;
2. Is committing or has committed an act which, if committed by the permit holder, would be grounds for suspension or revocation of the permit;
3. Has committed any act involving dishonesty, fraud, or deceit whereby another person was injured or the applicant has unjustly benefitted;
4. has provided or is providing ambulance services within the City without having a permit as required by this Chapter;
5. Has entered a plea of guilty to, been found guilty of, or been convicted of a felony, or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of any order granting probation following such conviction or suspending the imposition of sentence, of a subsequent order under the provisions of Penal Code section 1203.4 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the plea of verdict of guilty, or dismissing the accusation or information.

5.21.090 Issuance of Permit/Contents/Conditions.

If the City Council, by resolution, shall find and declare that the public convenience and necessity require the proposed ambulance service or will admit additional ambulance services, a permit to that effect shall be issued to the applicant(s). The City Council, in its discretion, shall determine the total number of ambulances which may be operated under such permit. The permit when issued shall state the name and address of the applicant, the number of ambulances that may be operated under the permit, and the date of issuance thereof. No permit authorized hereunder shall be issued to any person who shall not have fully complied with all the requirements of this Chapter, specifically including the provision of insurance coverage as required by Section 5.21.110.

5.21.100 Permit Posting Requirements.

Each ambulance operator to whom the City Council has issued a permit pursuant to this Chapter shall cause a copy of the permit to be posted on the dashboard of the ambulance in a position clearly visible, or in some other area approved by the City Council.

5.21.110 Required Insurance.

No permit for the operation of an ambulance service shall be issued, nor shall such permit be valid after issuance, nor shall any ambulance be operated unless there is at all times in full force and effect, comprehensive automobile liability insurance, comprehensive general liability insurance and professional liability insurance policies issued by a company authorized to do business in the State, acceptable to the Finance Director, insuring the permittee, its officers, agents and employees against loss by reason of personal or bodily injury, sickness, death or damage or destruction of property that may result from operation of the permittee. Comprehensive general liability insurance shall be in the sum of not less than one million dollars (\$1,000,000.00) combined single limit, bodily injury and property damage. Professional liability insurance shall be in the sum no less than one million dollars (\$1,000,000.00) per person and two million dollars (\$2,000,000.00) combined single limit, bodily injury and property damage. Workers' compensation insurance shall be carried covering all employees of the permit holder. All policies shall contain a provision requiring a thirty (30) day written notice to be given to the City prior to cancellation, modification or reduction in limits.

With regard to the policies of insurance providing comprehensive automobile liability insurance and comprehensive general liability insurance, each such policy shall contain an endorsement identifying the City as an additional insured and providing that the ambulance service's insurance coverage shall be primary and that any insurance maintained by the City shall be excess of the ambulance service's insurance and shall not contribute with it.

5.21.120 Permit Transfer.

No permit for the operation of an ambulance service may be sold, assigned or otherwise transferred without the consent of the City, nor shall the holder of any permit alter or change its approved color scheme, insignia, logo, monogram or name without the written consent of the City Manager or designee. Requests for the transfer of a permit, or for a change of the color scheme, insignia, logo, monogram or name, shall be submitted, in writing, to the City Manager, and shall contain all information regarding the proposed transferee as is required for an original application. However, depending upon the nature and circumstances of the transfer or other requested change, the City Manager, shall have discretion to vary from the strict requirements of the Code regarding the submittal of information. The City Manager shall grant such requests, if he finds that the proposed transfer or other change meets all of the requirements of this Chapter, otherwise, he shall deny the request.

Any aggrieved party may appeal to the City Council the City Manager's approval or denial of a request made pursuant to this Section. The notice of appeal shall be filed with the City Manager, in writing, within ten (10) days of the City Manager's decision. Upon receipt of the notice of appeal, the matter shall be set for hearing before the City Council and shall follow the procedures provided in [business license appeals]. The decision of the City Council shall be final.

5.21.130 Equipment and Maintenance.

A. Prior to the initial use and operation of any vehicle as an ambulance, and at least once annually thereafter, the applicant and/or the owner operator of the ambulance service shall provide proof satisfactory to the Fire Chief that the vehicle complies with all applicable rules and regulations relating to safety and sanitation. In this regard, the Fire Chief may require that the

applicant and/or the owner operator of the ambulance service secure and provide, at their sole expense, a safety and sanitation inspection report from a qualified inspector approved by the Fire Chief.

B. No ambulance which is unsafe or in any way unsuitable for ambulance service shall be operated.

5.21.140 Additional Vehicles.

Any person holding a permit to operate one or more ambulances as provided in this Chapter, who desires to add to the number of such vehicles, shall do so only by obtaining a permit therefor from the City Manager. There shall be no requirement of a public hearing regarding such requests. The City Manager may require from the applicant such information as he may deem necessary in order to evaluate the permit application in accordance with the criteria set forth in Section 5.28.090; and, after duly considering such information, he shall either grant or deny the application.

Any aggrieved party may appeal to the City Council the City Manager's approval or denial of a request made pursuant to this Section. The notice of appeal shall be filed with the City Manager, in writing, within ten (10) days of the City Manager's decision. Upon receipt of the notice of appeal, the matter shall be set for hearing before the City Council. The decision of the City Council shall be final.

5.21.150 Substitute Vehicles.

Any person holding a permit to operate one or more ambulances as provided in this Chapter who desires to substitute a different vehicle for a vehicle operated under such permit shall do so only upon obtaining from the Fire Chief, permission therefor, which shall be granted only upon written application setting forth the particulars of such proposed substitution, and upon otherwise complying with the requirements of this Chapter.

Chapter 22

CANNABIS PILOT PROGRAM

Sections:

- 5.22.010 Declaration of Purpose.**
- 5.22.020 Definitions.**
- 5.22.030 Cannabis Business Pilot Program.**
- 5.22.040 All State and Local Licenses and Permits Required.**
- 5.22.050 Permits Not Transferable.**
- 5.22.060 Development Agreement.**
- 5.22.070 Nonconforming Use.**
- 5.22.080 Outdoor Cultivation of Cannabis Prohibited.**
- 5.22.090 Relationship to Other Laws.**
- 5.22.100 Statewide Regulation.**
- 5.22.110 Severability.**

5.22.010 – Declaration of Purpose.

A. The City finds and declares that the purpose of this chapter is to regulate all commercial cannabis activity in the City of Ceres, to the extent authorized by state law and in a manner designed to minimize negative impacts on the City, and to promote the health, safety, morals, and general welfare of residents and businesses within the City.

B. It is the purpose and intent of the City Council to implement state law by regulating cannabis businesses and to ensure that commercial cannabis activity does not result in the diversion of cannabis for illicit purposes.

C. The regulations in this chapter do not interfere with a qualified patient’s right to obtain and use cannabis as authorized under state law, nor do they criminalize the possession or cultivation of cannabis by qualified patients or their primary caregivers. Cannabis businesses shall comply with all provisions of the Ceres Municipal Code, state law, and all other applicable local and state regulations. It is neither the intent nor the effect of this chapter to condone or legitimize the illegal use, consumption, or cultivation of cannabis under federal, state, or local law.

5.22.020 – Definitions.

“Adult Use of Marijuana Act” or “AUMA” has the same meaning as Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act approved by California voters at the November 8, 2016, election, and any applicable rules and regulations promulgated thereafter.

“Business” means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.

“City Manager” shall mean the Ceres City Manager or designee.

“Commercial cannabis activity” includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products that requires a state license, including medicinal cannabis or medicinal cannabis product as defined in section 26001 of the Business and Professions Code.

“Cannabis business” shall mean any person or business that engages in commercial cannabis activity.

“Cannabis business permit” shall mean any permit issued to a cannabis business pursuant to the provisions of this chapter.

“Cannabis Business Pilot Program” shall mean the City’s permitting process and procedures pursuant to the provisions of this chapter for the purpose of determining and evaluating the feasibility and desirability of regulating multiple cannabis businesses within City limits.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Medicinal and Adult-Use Cannabis Regulation and Safety Act” or “MAUCRSA” has the same meaning as Chapter 1 (commencing with section 26000) of Division 10 of the California Business and Professions Code, and any applicable rules and regulations promulgated thereafter.

“Primary caregiver” shall have the same meaning as set forth in California Health and Safety Code section 11362.7(d).

“Qualified patient” shall have the same meaning as set forth in California Health and Safety Code section 11362.7(f).

5.22.030 –Cannabis Business Pilot Program.

A. Cannabis businesses shall only be permitted to operate in the City following application, investigation, verification, approval, and issuance of a development agreement approved by the City Council, and a cannabis business permit issued by the City in accordance with the criteria and procedures set forth in this chapter. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a cannabis business shall be granted or permitted unless it complies with the provisions of the Ceres Municipal Code.

B. All persons who are engaged in or who are attempting to engage in commercial cannabis activity in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions of this chapter, AUMA, and MAUCRSA, as it applies, the provisions of the Ceres Municipal Code, as may be amended from time to time, and all other applicable state and

local laws and regulations.

C. The City Manager is authorized to make policies and procedures consistent with the intent of this chapter concerning the applications, the application process, the information required of an applicant, the application procedures, and the administration and procedures to be used and followed in the application and hearing process.

5.22.040 – All State and Local Licenses and Permits Required.

A. No cannabis business shall operate unless it is in possession of all applicable state and local licenses and permits.

B. Every cannabis business shall submit to the City Manager a copy of any and all of its state and local licenses and permits required for its operation.

C. If any other applicable state or local license or permit required for a cannabis business' operation is denied, suspended, modified, revoked, or expired, the cannabis business shall notify the City Manager in writing within ten (10) days of such denial, suspension, modification, revocation, or expiration.

5.22.050 – Permits Not Transferable.

Cannabis business permits issued pursuant to this chapter are not property and have no value. Cannabis business permits may not be transferred, sold, assigned or bequeathed expressly or by operation of law. Any attempt to directly or indirectly transfer a cannabis business permit shall be unlawful and void, and shall automatically revoke the permit.

5.22.60 – Development Agreement.

A. Prior to operating in the City, and as a condition of issuance of any applicable permits, including, but not limited to, a cannabis business permit, the applicant seeking to operate a cannabis business shall enter into a development agreement with the City setting forth the terms and conditions under which the cannabis business will operate. Such development agreement shall be in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed upon, approval of architectural plans (including site plan, floor plan, and elevation), and such other terms and conditions that will protect and promote the public health, safety, and welfare of all persons in the City.

B. Every development agreement approved by the City pursuant to this chapter shall be subject to an annual review by the City Council to determine compliance with the terms of the development agreement, applicable local and state laws and regulations, this chapter, and the Ceres Municipal Code. The City Council may from time to time determine whether to allow additional cannabis businesses as part of the Cannabis Business Pilot Program.

5.22.070 – Nonconforming Use.

Any cannabis business established or operating in the City in violation of this chapter shall not

be considered a lawful or permitted nonconforming use, and no such cannabis business shall be eligible for issuance of any permits or approvals under the Ceres Municipal Code. Further, any such unlawfully established cannabis business shall constitute a public nuisance subject to abatement by the City.

5.22.080. – Outdoor Cultivation of Cannabis Prohibited.

A. A cannabis business shall only be allowed to cultivate cannabis within a fully enclosed building.

B. A Cannabis business shall not cultivate cannabis outdoors.

5.22.090 – Relationship to Other Laws.

Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in Chapter 1 (commencing with Section 26000) of Division 10 of the California Business and Professions Code, or its successors. In the event of any conflict between the provisions of this chapter and the provisions of that chapter or any other applicable state or local law, the more restrictive provision shall control.

5.22.100 – Statewide Regulation.

This chapter, and the provisions herein, shall be read consistent with any statewide regulation of cannabis that is promulgated by the legislature or by voter approval.

5.22.110 – Severability.

Should any provision of this chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

Chapter 23

VEHICLES FOR HIRE

Sections:

- 5.23.010 Definitions.**
- 5.23.020 Permit Required.**
- 5.23.030 Owner's Permit Application.**
- 5.23.040 Owner's Permit Application Fees.**
- 5.23.050 Owner's Permit Investigation and Granting.**
- 5.23.060 Grounds for Denial of Owner's Permit.**
- 5.23.070 Posting of Permit.**
- 5.23.080 Replacement of Vehicle.**
- 5.23.090 Revocation of Owner's Permit.**
- 5.23.100 Surrender of Owner's Permit.**
- 5.23.110 Inspection of Vehicles.**
- 5.23.120 Right of Entry.**
- 5.23.130 Unsafe Vehicles.**
- 5.23.140 Cruising Prohibited.**
- 5.23.150 Capacity.**
- 5.23.160 Driver's Permit Required.**
- 5.23.170 Driver's Permit Application Fees.**
- 5.23.180 Police Investigation of Applicant's Traffic and Police Record.**
- 5.23.190 Consideration of Driver Applicant.**
- 5.23.200 Eligibility for Driver's Permit.**
- 5.23.210 Driver's Permit Information Required.**
- 5.23.220 Revocation and/or Renewal of Driver's Permits; Appeal.**
- 5.23.230 Termination of Employment.**
- 5.23.240 Insurance Required.**

5.23.010 – Definitions.

Whenever used in this Chapter, the following words or terms shall be deemed to have the following meanings:

“Driver” means every person in charge of operating any "vehicle for hire," as defined herein, either as agent, employee, owner, or under the direction of the "owner" as herein defined.

“Owner” means every person having use and control of any "vehicles for hire," as herein defined, whether as owner, lessee or otherwise.

"Vehicle for Hire" shall include any motor vehicle operated and used upon the public streets of the City for the purpose of carrying passengers for hire. "Vehicles for Hire" shall not include any of the following:

- A. Private passenger vehicles used for carpooling by persons providing transportation of other persons to and from work where no fee is charged except for the reasonable cost of gas and maintenance of the vehicle used to provide the work-related transportation.
- B. Taxicabs regulated by Chapter 5.13 of this Code.
- C. Ambulance or convalescent transport vehicles.
- D. Public transportation vehicles provided by a governmental entity or pursuant to a contract with a governmental entity.
- E. Passenger charter—party carriers regulated by division 2, chapter 8 of the California Public Utility Code, commencing with Section 5351.
- F. Passenger stage corporations regulated by division 1, Chapter 5 of the California Public Utility Code, commencing with section 1031.
- G. Vehicles used for the purpose of transporting persons for hire where the driver is related to the passengers by blood or marriage.
- H. Vehicles used for the purpose of transporting persons for hire where five (5) or fewer persons are transported per day. In computing the number of persons transported per day, any person transported to their destination and returned to their point of departure during the same day shall be counted as one person transported.

It is the specific intent and purpose of this Chapter to regulate all passenger vehicles for hire operating within the City which vehicles are not otherwise regulated by the provisions of the Public Utility Code of this State, or are not otherwise excluded from the definition of "Vehicles For Hire" by this Section.

5.23.020 - Permit Required.

No person shall own, operate, or cause or permit any other person to own or operate, any vehicle for hire in the business of carrying passengers unless such person has obtained a proper permit therefor as provided in this Chapter.

5.23.030 - Owner's Permit Application.

Any owner desiring to obtain the permit required by Section 5.23.020 shall make application to the Police Chief. Each application shall be accompanied by a policy of insurance in the amount provided for by Section 5.23.240. The application shall set forth the following:

- A. The name, age, business address, and residence of the applicant, if a natural person; or if a corporation, its name, date and place of incorporation, address of its principal place of business, and the names of its principal officers, together with their respective addresses; or, if a partnership, association or unincorporated company, the names of the partners, or of the persons comprising the association or company, with the place of business and residence of each such partner or person;

- B. A description of each motor vehicle which the applicant proposes to use, giving the type of each vehicle; the name of the manufacturer thereof; the horsepower; the vehicle identification number and the state license of each vehicle; and the seating capacity thereof according to the factory rating;
- C. The name, monogram or insignia proposed to be used on each motor vehicle, if any;
- D. The street number and exact location of the property where the applicant proposes to stand each motor vehicle, together with written consent signed and acknowledged by lessees, sublessees and owners of such property; and,
- E. The applicant shall furnish such other information as the Police Chief may require.

5.23.040 - Owner's Permit Application Fees.

Every person requesting an owner's permit under this Chapter shall pay, in addition to any business tax which the permittee shall be required to pay, an application fee, the amount of which shall be determined from time to time by resolution of the City Council. The application fee shall be sufficient to cover the reasonable cost incurred by the City to process the application, including the cost of any investigation. Such fees shall be paid in advance at the time the application is filed.

5.23.050 - Owner's Permit Investigation and Granting.

Upon receipt of an application for an owner's permit and payment of the required fees, the Police Chief shall make an investigation and may thereafter grant the permit if he shall find that:

- A. The bond or policy of insurance hereinafter required has been furnished and that the same is in the form required;
- B. Each vehicle described therein is adequate and safe for the purpose for which it is to be used, and is equipped as required in this Chapter;
- C. The applicant is of good moral character, has complied with all the terms and conditions of this Chapter and is competent to operate such a business;
- D. The public convenience or necessity requires the operation of such motor vehicle for hire upon the public streets; and,
- E. The name, monogram, or insignia, if any, of the proposed vehicle for hire does not conflict with or imitate any other taxi company theretofore permitted to operate in the City in such a manner as to be misleading or to deceive the public.

5.23.060 - Grounds for Denial of Owner's Permit.

Any of the following reasons shall be sufficient for denial of an owner's permit required by this Chapter:

- A. That the application is not in the form, and does not contain the information required to be contained therein by this Chapter.

B. That the vehicles described therein are inadequate or unsafe for the purposes for which they are to be used.

C. That the color scheme, name, monogram or insignia, if any, to be used upon such vehicles shall be in conflict with or imitate any color scheme, name, monogram or insignia used by any person in such manner as to be misleading or tend to deceive or defraud the public.

D. That the applicant has, at some prior time, had such a permit revoked for cause.

5.23.070 - Posting of Permit.

Each owner to whom a permit has been issued shall cause an authenticated copy of the permit to be posted on the dash in a position clearly visible to the passengers in the vehicle, or in some other area approved by the Police Chief.

5.23.080 - Replacement of Vehicle.

Whenever an owner sells or transfers title to a vehicle for which a permit has been granted and purchases another vehicle, the Police Chief, as a matter of right, upon written request of applicant, shall issue a new permit for the operation of such replacement vehicle, provided said owner has complied with all the provisions of this Chapter. No replacement vehicle shall be put into operation before a permit covering its operation has been obtained as required by this Section.

5.23.090 - Revocation of Owner's Permit.

A permit may be revoked by the City Manager at any time after proper notice to and opportunity of hearing has been given to the owner thereof, if:

A. The City Manager finds the owner's past record to be unsatisfactory.

B. The owner fails to operate the vehicle in accordance with the provisions of this Chapter.

C. The owner's service to the public is inadequate or inefficient.

D. The owner fails to pay any of the fees or payments required to be paid by him by the provisions of this Chapter or by the provisions of this Code.

5.23.100 - Surrender of Owner's Permit.

An owner's permit which shall have been canceled or revoked by the City Manager shall forthwith be surrendered to the Police Chief, and the operation of any vehicle covered by such a permit shall cease and further operation of such a vehicle shall be unlawful. Any owner who shall permanently retire any vehicle from service and within ten (10) days thereof not replace said vehicle or make arrangements satisfactory to the Police Chief for said replacement shall immediately surrender any permit granted for the operation of such vehicle to the Police Chief. An owner may not secure a new permit for the operation of any vehicle for which a permit has been canceled, revoked or surrendered without having first made application therefor in the manner provided in this Chapter.

5.23.110 - Inspection of Vehicles.

Before a permit is issued to an owner for the operation of a vehicle, and annually thereafter, the owner shall provide proof satisfactory to the Police Chief that the vehicle is roadworthy and safe from an operational standpoint. Such proof shall be provided at the sole expense of the owner and shall be in the form of an inspection report from a qualified inspector approved by the Police Chief.

5.23.120 - Right of Entry.

The Police Chief, or any member of the Police Department, shall have the right at any time, after displaying proper identification, to enter into or upon a vehicle holding a permit under this Chapter for the purpose of ascertaining whether or not any of the provisions of this Chapter are being violated.

5.23.130 - Unsafe Vehicles.

Any vehicle which is found, after any such inspection, to be unsafe or in any way unsuitable for transportation service shall be immediately ordered out of service, and before again being placed in service shall be placed in a safe condition.

5.23.140 - Cruising Prohibited.

Unoccupied vehicles shall not be operated over public streets in search of, or soliciting, prospective passengers for hire.

5.23.150 - Capacity.

No driver of any vehicle shall accept, take into his vehicle or transport any larger number of passengers than the rated seated capacity of his vehicle, and seat belts shall be provided for each occupant of the vehicle.

5.23.160 - Driver's Permit Required.

It shall be unlawful for any person to drive or operate any vehicle for hire without first obtaining a driver's permit in writing so to do from the Police Chief.

Permits issued will entitle the driver to work for only the owner whose name appears on the permit. A new permit will be required for each subsequent employment.

5.23.170 - Driver's Permit Application Fees.

Applicants for driver's permits shall file applications therefor with the Police Chief upon forms to be furnished by the City. Applicants for driver's permits shall pay an application fee for each application, the amount of which shall be determined from time to time by resolution of the City Council. The application fee shall be sufficient to cover the reasonable cost incurred by the City to process the application, including the cost of any investigation. Such fees shall be paid in advance at the time the application is filed.

In the event a person who has obtained a permit to drive a vehicle pursuant to this Chapter thereafter terminates his/her employment as a driver, no permit fee shall be required for such person to obtain a new driver's permit if the application for the new permit is made within one year from the date of the termination of his/her immediate prior employment.

5.23.180 - Police Investigation of Applicant's Traffic and Police Record.

The Police Chief shall conduct an investigation of each applicant for a driver's permit and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application.

5.23.190 - Consideration of Driver Applicant.

The Police Chief shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the Police Chief and may offer evidence why his/her application should be reconsidered. If the Police Chief again rejects the application, the applicant may request a personal appearance before the City Manager to offer evidence why his/her application should be granted. The ruling of the City manager on the application shall be final.

5.23.200 - Eligibility for Driver's Permit.

Except as hereinafter set forth, no driver's permit shall be issued to any of the following persons:

- A. Any person under the age of eighteen (18) years.
- B. Any person who is currently required to register pursuant to section 290 of the California Penal Code.
- C. Any person who has been convicted of a crime involving moral turpitude, narcotic or dangerous drugs, unless a period of not less than five (5) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.
- D. Any person who has been convicted of driving a vehicle recklessly within the two (2) years immediately preceding application for a permit.
- E. Any person who has been convicted of driving a vehicle while under the influence of intoxicating liquors within the five (5) years immediately preceding application for a permit.
- F. Any person not possessing a valid Class 3 driver's license, issued by the State of California.
- G. Any person who has been convicted of three (3) or more felonies.

The Police Chief or City Manager upon appeal, in his discretion, may waive the provisions of subsection C above and issue a permit to a person who otherwise would be unqualified due to the provisions of said subsection C provided he receives letters from that person's prospective employer and parole officer which attest to a good-faith belief that the applicant has reformed his moral character so as to pose no threat to members of the public.

5.23.210 - Driver's Permit Information Required.

Said permit shall be in the form of a card which shall bear the signature, photograph and fingerprints of the applicant. Such card shall be issued in duplicate and one copy with the fingerprints, photograph and signature of the applicant shall be placed on file with the Police Chief and the other card shall be displayed in the vehicle for hire in a conspicuous place visible to all passengers while the vehicle is being operated.

5.23.220 - Revocation and/or Renewal of Driver's Permits; Appeal.

A. The Police Chief may revoke or refuse to renew a driver's permit if the driver has since the granting of the permit:

1. Been convicted of any crime described in subsections 5.23.200C, D or E of this Chapter or any crime for which registration is required pursuant to section 290 of the California Penal Code.
2. Had his/her Class 3 driver's license revoked or suspended.
3. Had two (2) or more convictions of any of the offenses set forth in the Vehicle Code of the State of California and amendments thereto relating to speeding violations, or any combinations of any of such offenses, occurring during any continuous period not exceeding twelve (12) months.
4. Violated any of the provisions of this Chapter.
5. When for any reason, including or other than the above, in the opinion of the Police Chief, the applicant is unfit to drive a vehicle for hire.

B. The decision of the Police Chief to revoke or refuse to renew a driver's permit pursuant to this Section may be appealed to the City Manager, and the decision of the City manager shall be final. Any request for an appeal hearing shall be filed in writing with the office of the City Manager within five (5) days from receipt of notice of revocation or refusal to renew from the Police Chief. The appeal hearing before the City manager shall be held within fifteen (15) days of receipt of the request for appeal, and the person appealing the action shall be given at least five (5) days' notice of the date set for the appeal hearing.

5.23.230 - Termination of Employment.

It shall be the duty of the owner of each vehicle for hire to notify the Police Chief in writing within five (5) days whenever a driver has either voluntarily or involuntarily terminated employment.

The owner shall cause and be responsible for each driver returning his/her driver's permit to the Police Chief within five (5) days after the termination of his employment as a driver of a vehicle for hire.

5.23.240 - Insurance Required.

No permit for the operation of a vehicle for hire shall be issued, nor shall such permit be valid after issuance, nor shall any vehicle for hire be operated unless there is at all times in full force

and effect, comprehensive automobile liability insurance, comprehensive general liability insurance and workers' compensation insurance policies issued by a company authorized to do business in the State of California, acceptable to the Finance Director, insuring the owner and the driver against loss by reason of personal or bodily injury, sickness, death, or damage or destruction of property that may result from operation of the vehicle by the owner or driver. Comprehensive general liability insurance and automobile liability insurance shall be in the sum of not less than one million dollars (\$1,000,000.00) combined single limit, bodily injury and property damage. Workers' compensation insurance shall be carried covering all employees of the owner. All policies shall contain a provision requiring a thirty (30) day written notice to be given to the City prior to cancellation, modification, or reduction in limits.

Chapter 24

CHARITABLE SOLICITATIONS

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5.24.010 - Purpose.

The City Council finds:

A. That numerous persons have been and are soliciting funds and property in the City on the representation that such funds are to be used for charitable purposes when in truth and in fact such funds and property are being used either wholly or in a large part for the private profit of individuals making or promoting such solicitations; that a number of fraudulent and misleading representations are employed in many solicitations; that deliberate imitations of the names, slogans, and familiar devices of great and worthy charities are fraudulently imposed upon the public; that, as the result of pernicious activities, honest and needed charities are suffering from a suspicion engendered by these practices and that residents in this City have in many cases been defrauded and imposed upon for lack of adequate protection.

B. That access to information concerning persons making charitable solicitations, and to information which fully discloses the uses for which contributed funds are proposed to be used

or have been used by persons making charitable solicitations will provide a means for residents of the City to protect themselves from being misled and from making contributions to unworthy persons; that there is no good or compelling reason why persons soliciting charitable contributions should not fully and fairly disclose the convictions for fraud or dishonesty of persons making charitable solicitations, the method of conducting charitable solicitations, the use of funds obtained and related matters; that such information concerning persons making charitable solicitations, their activities and their purposes, should be obtained by the coordinator and be made freely available to any interested person; and that, to promote the purposes of this Section, the coordinator should publicize the availability of such information as well as publicizing the general nature and extent of charitable solicitation activity in the City.

C. That the public safety, peace, comfort, and convenience demands the exercise of the police power of this City to prevent fraudulent solicitations and to promote legitimate solicitations for charitable purposes.

5.24.020 - Definitions.

Whenever used in this Chapter unless a different meaning clearly appears from the context:

“Campaign” is a series of planned actions for the purpose of obtaining charitable contributions and includes planning and conducting a sale or special event in which goods, services, or other thing of value is offered in return for a contribution.

“Charitable Contribution” is the transfer or giving of anything of value intended by the donor to be a gift to a charitable organization or for a charitable purpose and includes a gift under the guise of a loan and any payment in excess of the "direct benefit cost" of an item received in return.

“Charitable Solicitation” is any request made directly or indirectly for money, credit, property, financial assistance, or other thing of value on the plea, representation, or implication that the requested contribution will be used for patriotic, benevolent, educational, civic, fraternal, or other philanthropic purposes. It does not mean an appeal for contributions if the appeal:

- A. Is confined and directed exclusively to the membership of an organization which is the recipient of the contributions; or
- B. Is for the relief of an individual specified by name at the time of solicitation where the solicitor represents that the entire amount collected, without any deductions whatever, shall be turned over to the name beneficiary; or
- C. Is made for a contribution to be used for the direct aid or support of a church or religion, or for a political party or organization; however, a request by a religious or political organization for a contribution to be used for charitable purpose is a "charitable solicitation."

“Coordinator” is the coordinator of the Stanislaus County office of consumer affairs and his authorized deputies, or such other person or agency as may be designated by resolution of the City Council pursuant to Section 5.24.230.

“County” refers to the unincorporated area of the County of Stanislaus, State of California.

“Direct Benefit Costs” means the costs to a licensee necessary to conduct a sale or special event in which goods, services or other thing of value is offered in return for a charitable contribution.

"Necessary" costs are those which result in the purchase of goods and services which directly benefit the contributor. Such costs shall not include profit nor any expenses incurred in planning, promoting, conducting the sale or special event, such as building and equipment rental for solicitation purposes, salaries for ticket sellers, ushers, security officers, janitor and similar employees; compensation to salesmen and other direct solicitors; promotional expenses, such as printing, mailing, advertising, and consultants' fees.

“License” is the charitable solicitation license that is required by this Chapter.

“Office” refers to the Stanislaus County office of consumer affairs.

“Person” means any individual, firm, partnership, corporation, association, society or other organization, and includes any trustee, receiver, assignee, agent, or other similar representative thereof.

“Service of Notice” is the personal delivery to, or mailing to the person to whom the notice is directed. Mailing by registered or certified mail properly addressed to the person at the last known address, shall be presumed to be served on the second business day following the day on which the letter was mailed.

“Solicitation” means any oral or written request for charitable contributions including:

- A. The distribution, circulation, mailing, posting, or publishing of any handbill, written advertisement, or publication;
- B. Any form of announcement to the general public in which the public is requested to support a charitable cause;
- C. The sale of, or the attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket, or other thing in connection with which any appeal is made for a contribution to a charitable organization.

“Solicitation Expense” is any cost incurred in the solicitation and collection of contributors, including, but not limited to, compensation to persons providing services, cost of advertising and promotion, purchase or rental of buildings and equipment and costs of mailing, telephone service and similar expenses.

5.24.030 - Unlawful Conduct.

It shall be unlawful:

- A. For any person to conduct a charitable solicitation campaign on the streets or in any public place or by house-to-house, or by business-to-business canvass in the City, without having a valid charitable solicitation license issued pursuant to this Chapter.

B. For any person to utilize, in any manner whatever, any premises or facilities located in the City to conduct a charitable solicitation campaign without having a valid charitable solicitation license issued pursuant to this Chapter.

5.24.040 - License; Application.

An application for a charitable solicitation license shall be made to the office upon forms provided by the coordinator. Such applications shall be sworn to and filed with the office at least thirty (30) days prior to the time the license applied for shall become effective; provided, however, that the office may for good cause shown allow the filing of an application less than thirty (30) days prior to the effective date of the license for which applied. When issued, the license shall be valid for one year. The application required in this Section shall contain the following information:

- A. The name and address of the principal office of the applicant and the name and address of a representative in the City authorized to receive notices and to act for the applicant.
- B. The names and addresses of all principal persons or officers interested in or connected with the applicant.
- C. If the applicant or any of the applicant's officers, principals, agents or employees who are or will be engaged in the proposed charitable solicitation in the City has ever been convicted of a crime against property, including theft, embezzlement, forgery or any form of fraud or the obtaining of money by false pretenses.
- D. Whether any of the applicant's officers, principals, or other persons who will be engaged in a proposed charitable solicitation campaign has engaged or participated in a charitable solicitation campaign in the City within the prior three (3) years.
- E. The anticipated purposes for which the proceeds of any solicitation, sale, bazaar, exhibition, promotion, amusement, show, lecture, entertainment, or other enterprise or any part thereof are to be used including the amount of any compensation intended to be paid to any person, promoter, firm, association, or corporation out of such proceeds.
- F. The total amount which is sought to be raised.
- G. The banks or places where all or any part of the funds raised by such activities will be placed on deposit or invested.
- H. The process or methods in which the solicitations will be undertaken.
- I. The proposed source of funds which will be used to pay solicitation expenses.
- J. Such other information in respect to the character, past activities and the proposed activity of the applicant and the parties directly interested in or engaged in the work as may be necessary or desirable to enable the office to make a full and complete investigation.

5.24.050 - Financial Statement.

The application for a charitable solicitation license shall be accompanied by a financial statement showing the amount of money raised by the applicant within the City for charitable purposes during the preceding year. The financial statement shall show the amount of moneys expended by the applicant in the collections of such charitable funds, and the programs or beneficiary agencies to whom the funds were disbursed.

5.24.060 - Forms for Financial Statement.

The financial statement required in Section 5.24.050 may be submitted using any of the following forms:

- A. A financial statement or treasurer's report regularly prepared by the licensee;
- B. Forms furnished by the coordinator. In the event the applicant did not solicit in the City in the preceding year, the applicant shall submit such a statement for the most recent year within the last five (5) years, if any, in which a solicitation was made, and an estimated financial statement in the form furnished by the coordinator.

5.24.070 - Duties of Licensee.

The holder of a charitable solicitation license shall:

- A. Notify the coordinator, at least ten (10) days before the start of a solicitation campaign, the areas in which solicitations will be made, the manner of solicitations, the person(s) responsible for the campaign, and any other information requested by the coordinator.
- B. File a written completion report with the coordinator. The report shall state the total contributions secured from or as a result of the campaign, and the expenses of the campaign. Completion reports shall be made upon forms provided by the coordinator and shall be filed as follows:
 - 1. In the event the solicitation campaign was conducted by a licensee with a permanent City office, such report shall be filed within one hundred twenty (120) days after the close of solicitation.
 - 2. In the event that the solicitation campaign was conducted by a licensee with no permanent City office, the report required by this Section shall be filed with the coordinator within thirty (30) days after the close of solicitations or before the commencement of another solicitation campaign, whichever comes first.
- C. Maintain a system of accounting whereby all donations and disbursements are recorded. A licensee shall maintain records for special events which show in detail all expenditures which the licensee has deducted from revenues as consisting direct benefit costs.

5.24.080 - Waiver of Financial Statements and Accounting System.

The coordinator may, in his/her discretion, determine that Sections 5.24.050, 5.34.060, and subsection C of Section 5.34.070 shall not apply to any person certifying:

A. That less than five hundred dollars (\$500.00) is expected to be obtained in the next calendar year; or

B. That one hundred percent (100%) of the funds obtained by charitable solicitations made by such person will be used for charitable purposes and that all solicitation expenses associated with any charitable solicitations made by the person so certifying will be donated by persons who have been expressly advised that such donations will be used for solicitation expenses and not for charity. The individual certifying for an organization shall be specifically authorized to execute the certificate for the organization.

5.24.090 - Spending Contributions for Solicitation Expense Unlawful.

It shall be unlawful for any person knowingly to expend for solicitation expenses charitable contributions certified, pursuant to Section 5.24.080, to be entirely for charitable purposes.

5.24.100 - Suspension and Revocation; Sufficiency of Application.

The failure of any person to comply with any provision of this Chapter shall be sufficient grounds to revoke or suspend a license or to deny an application filed within a period of three (3) years of such failure. The coordinator shall act upon all applications for a license within thirty (30) days after the date on which the application is filed. Notice of the action taken shall be served upon the applicant. The sufficiency of a financial statement, system of accounting or completion report shall be determined by the coordinator. The coordinator may make or cause to be made any investigation deemed necessary and, upon request, the applicant shall make available for inspection by the coordinator, all of the applicant's books, records, and papers relating to any solicitation or campaign. The coordinator shall have the authority at any time in which a charitable solicitation license is in effect to require an applicant or licensee to provide the additional information the coordinator determines to be necessary to accomplish the purposes of this Chapter.

5.24.110 - Licensing of Exempt Persons.

Notwithstanding any provisions of this Chapter which exclude or exempt certain persons from the licensing requirements hereof, any person may elect to comply with the licensing provisions of this Chapter prior to making any noncommercial solicitation campaign; and the coordinator shall issue a license in the same manner as provided for any other applicant, and shall treat such applicant or licensee in every respect in the same manner as provided for any other licensee by this Chapter, but the license shall be identified by the purpose for which the solicited funds will be used and not as a "charitable" solicitations license.

5.24.120 - License; Denial.

Upon receipt of a full and complete application, the coordinator shall issue a license, provided that a license shall be denied if the applicant has been convicted of a crime against property, including theft, embezzlement, forgery; or any form of fraud; or the obtaining of money by false

pretenses; or for making or disseminating any false or misleading statement; or if the solicitation is or will be conducted in any manner which is in violation of the laws of the State of California.

5.24.130 - Identification Cards Required.

All persons to whom a charitable solicitation license has been issued under this Chapter shall furnish identification cards in the form provided by the office, to those agents and solicitors who must comply with Section 5.24.140. The credentials shall include the name of the soliciting agency, a statement that the soliciting agency is licensed with the office, the phone number of the office, the expiration date of the license, the name and signature of the solicitor, and whether or not the solicitor is a regular member of the soliciting agency.

5.24.140 - Identification Card Must Be Shown.

It shall be unlawful for any person to solicit on the streets, or in any public place, or by house-to-house or business-to-business canvass without showing the person solicited the identification card required in Section 5.24.130.

5.24.150 - Solicitation by Phone.

When a solicitation is made by telephone, the solicitor shall, before any request for contributions is made, provide the potential contributor with the following information:

- A. Name of solicitor;
- B. Name of the soliciting agency;
- C. That the soliciting agency is licensed by the coordinator;
- D. Whether or not the solicitor is a regular member of the soliciting agency.

5.24.160 - Receipts.

Any solicitor receiving a contribution shall, upon request, give to the contributor a written receipt signed by a representative of the person under whose license the solicitation is conducted showing the date and amount of the contribution; provided, however, that this Section shall not apply to any contribution collected by means of a closed box where it is impractical to determine the amount of such contribution.

5.24.170 - Denial of Application; Review by Coordinator.

The coordinator shall give written notice of reasons for an intended action to deny an application for a license or to revoke or suspend a license. Within ten (10) days after receiving such notice, an applicant may file with the coordinator a written request for an informal review hearing of the denial. The request shall state the applicant's grounds for requesting a review and shall specify any reasons why the proposed action is considered to be incorrect. The coordinator shall conduct a review hearing within fifteen (15) days after the request has been filed. Within ten (10) days after the conclusion of the review hearing, the coordinator shall render a written decision sustaining, reversing or modifying the intended action. The coordinator may impose reasonable conditions for the continued use of the license. The decision shall be filed with the City and shall

be available for public inspection and a copy shall be served upon the applicant.

5.24.180 - Advisory Capacity; Stanislaus County Consumer Affairs Advisory Council.

The Stanislaus County consumer affairs advisory council may attend a review hearing and act in an advisory capacity to the coordinator. Should the case be referred to the City, the Stanislaus County consumer affairs advisory council may act in an advisory capacity to the City Council.

5.24.190 - Appeal of Coordinator's Decision.

Any person aggrieved by any decision or action of the coordinator under the provisions of this Chapter may appeal to the Council by written notice of appeal filed with the Clerk of the City Council within fifteen (15) days following receipt by such person of written notice of such decision or action. The notice of appeal shall be brought before the Council not later than the second regular Council meeting following the filing for the appeal with the Clerk. At such meeting, the Council will determine and announce the time and place of the hearing on the appeal.

5.24.200 - Nighttime Solicitation Prohibited.

It is unlawful to solicit door-to-door or by telephone for any charitable purpose between the hours of nine o'clock (9:00) P.M. and nine o'clock (9:00) A.M.

5.24.210 - False Statements.

It shall be unlawful knowingly to make any false statement or to perpetrate any fraud in connection with any solicitation or in any application or report filed under this Chapter.

5.24.220 - Partial Invalidity.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid, or ineffective.

5.24.230 - Administration.

The City Council authorizes and directs that this Chapter shall be administered by the Stanislaus County office of consumer affairs. If the Stanislaus County office of consumer affairs shall for any reason refuse or otherwise fail to accept the responsibility of administering the provisions of this Chapter, then the City Council shall, by resolution, designate a new person or agency to act as administrator.

5.24.240 - Rules and Regulations.

The coordinator may make such rules and regulations as are reasonably necessary for the purpose of carrying out the provisions of this Chapter.